

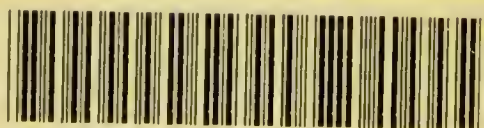
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A GUIDE
TO THE
LAW OF LICENSING.

B. STEPHEN FOSTER.

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A GUIDE
TO THE
LAW OF LICENSING,
SO FAR AS IT AFFECTS THE SALE BY RETAIL
OF INTOXICATING LIQUORS
IN ENGLAND AND WALES,
WITH AN
APPENDIX OF STATUTES AND FORMS OF LICENSES.

BY
B. STEPHEN FOSTER,

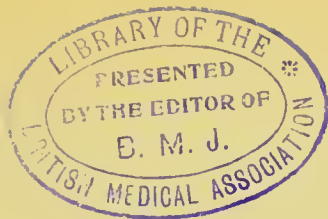
OF THE INNER TEMPLE AND MIDLAND CIRCUIT, BARRISTER-AT-LAW.

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P R E F A C E.

THE system of Licensing Law, which exists at the present day, has been evolved from a series of Statutes ranging over a considerable period of time. Apart from cross-references the Statutes in themselves do not, as a rule, present any great difficulty, the present complicated state of the law having been brought about by the numerous amendments and additions which have been imposed, from time to time, upon the earlier Acts by later legislation. The result is that, in order to arrive at a decision upon any particular question, reference must be made to various sections of Acts of Parliament extending from the year 1825 up to the present day. The following work has been undertaken with the object of lessening the trouble and difficulty which the necessity for such reference occasions, while fully stating the law by means of the sections themselves together with notes and decided cases. This object has seemed to me attainable by adopting the method of collecting and grouping together those sections in the Acts which relate to a particular subject under their appropriate headings. By means of this arrangement I have endeavoured to trace the Law of Licensing through its different stages.

From the evidence given before the Royal Commission on Liquor Licensing Laws it appears probable that legislation on this subject will take the form of consolidating and codifying the existing law, and, although this plan has not been attempted in the present work, it is hoped that it may form a step in that direction, while preserving the actual wording of the sections as they at present exist in the Statute Books.

The first part of the book deals with the grant of Licenses and Certificates by Justices. Part II. deals with the hours of closing licensed premises, offences against the Acts relating to Licensing, and other miscellaneous matters. Excise licenses are treated in Part III. There is also an Appendix of Statutes and Forms, the latter being printed by permission of the Controller of Her Majesty's Stationery Office.

I have to acknowledge the services of Mr. Spencer Brodhurst, of the Inner Temple, Barrister-at-Law, who has been of great assistance in the preparation of the following pages.

B. STEPHEN FOSTER.

NEW COURT, TEMPLE,

August, 1898.

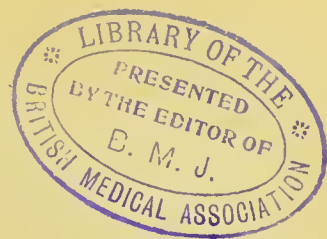


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A GUIDE TO THE LAW OF LICENSING.

PART I.

THE GENERAL ANNUAL LICENSING MEETING.

1. In every division of every county and riding, and of every division of the county of *Lincoln*, and in every hundred of every county, not being within any such division, and in every liberty, division of every liberty, county of a city, county of a town, city, and town corporate, in that part of the United Kingdom called *England*, there shall be annually holden a special session of the justices of the peace (to be called the General Annual Licensing Meeting), for the purpose of granting licenses to persons keeping or being about to keep inns, alehouses, and victualling houses, to sell exciseable liquors by retail, to be drunk or consumed on the premises therein specified; and such meetings shall be holden in the counties of *Middlesex* and *Surrey* within the first ten days of the month of *March*, and in every other county on some day between the twentieth day of *August* and the fourteenth day of *September* inclusive; and it shall be lawful for the justices acting in and for such county or place assembled at such meeting, or at any adjournment thereof, and not as hereinafter disqualified from acting, to grant licenses, for the purposes aforesaid, to such persons as

9 Geo. IV,
c. 61, s. 1.

General
Licensing
Meetings to be
held annually.

Time of holding
such meetings.

they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper.

**9 Geo. IV,
c. 61, s. 2.**

Time and place,
how to be
appointed.

Notice of
meetings to
be given.

2. In every such division or place as aforesaid there shall be holden, twenty-one days at the least before each such General Annual Licensing Meeting, a petty session of the justices acting for such county or place, the majority of whom then present shall, by a precept under their hands, appoint the day, hour, and place upon and in which such General Annual Licensing Meeting for such division or place shall be holden; and shall direct such precept to the high constable of the division or place for which such meeting is to be holden, requiring him, within five days next ensuing that on which he shall have received such precept, to order the several petty constables or other peace officers within his constablewick to affix or cause to be affixed on the door of the church or chapel, and where there shall be no church or chapel, on some other public and conspicuous place within their respective districts, a notice of the day, hour, and place at which such meeting is appointed to be holden, and to give to or to leave at the dwelling house of each and every justice acting for such division or place, and of each and every person keeping an inn, or who shall have given notice of his intention to keep an inn, and to apply for a license to sell exciseable liquors by retail, to be drunk or consumed on the premises, within their respective districts, a copy of such notice.

**32 & 33
Vict. c. 27,
s. 4.**

Retail licenses
not to be
granted without
certificate
granted under
this Act.

4. No license or renewal of a license for the sale by retail of beer, cider, or wine, or any of such articles, under the provisions of any of the said recited Acts shall (save as is in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act.

Any license granted or renewed in contravention of this enactment shall be void.

5. Certificates under this Act shall be granted by the justices assembled at the General Annual Licensing Meeting held in pursuance of an Act of the session of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to regulate the "granting of licenses to keepers of inns, alehouses, and "victualling houses in England," or at some adjournment of such meeting held in pursuance of the said last-mentioned Act.

32 & 33
Vict. c. 27,
s. 5.

Certificates, by
whom to be
granted.

17. No license for the sale of any exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the Commissioners of Excise, or by any officer of Excise, to any person whatsoever, unless such person shall have previously obtained from the justices a license under this Act, and which said license of such justices shall be retained by such person after being produced to the Commissioners or officers of Excise; and every license granted by the Commissioners of Excise, or by any officer of Excise, contrary to this provision, shall be null and void to all intents and purposes.

9 Geo. IV,
c. 61, s. 17.

No excise
license to be
granted, except
to a person
licensed under
this Act.

S. 1. The Alehouse Act, 1828, which originally applied to inns, alehouses, and victualling houses only, but was extended to all other houses by 32 & 33 Vict. c. 27, ss. 5 & 8; 33 & 34 Vict. c. 29, s. 4, and Licensing Act, 1872, ss. 68 & 74, governs all houses which require a justices' license or certificate.

The following are the various licenses and certificates of justices which are granted under s. 1. of the Alehouse Act, 1828, extended as above:—

1. License, known as an alehouse license, to retail all intoxicating liquors for consumption on the premises, (9 Geo. IV, c. 61, ss. 1 & 37; Licensing Act, 1872, s. 74, p. 320; *R. v. Wilkinson*, 28 J.P. 597; 10 L.T.N.S. 370; *R. v. Surrey JJ.*, 52 J.P. 423). As to excise license, *see* p. 163.

2. Certificate for the sale by retail of beer, porter, eider, and perry, for consumption on the premises (32 & 33 Viet. c. 27, s. 4, *supra*). As to excise license, *see* p. 177.
3. The same not for consumption on the premises. S. 4, *ibid*, and *see* p. 177 as to Excise license.
4. Certificate for the sale by retail of table beer, at a price not exceeding three half-pence a quart, not for consumption on the premises, (24 & 25 Vict. c. 21, s. 3; 32 & 33 Vict. c. 27, s. 4, *supra*). *See* definition of sale by retail, p. 52.
5. Certificate to licensed wholesale beer dealers for the sale by retail of beer not for consumption on the premises, (26 & 27 Viet. c. 33, s. 1; 32 & 33 Vict. c. 27, s. 4, *supra*).
6. Certificate for the sale by retail of cider and perry for consumption on the premises, (11 Geo. IV, & 1 Will. IV, c. 64, s. 30; 3 & 4 Vict. c. 85, ss. 1, 15; 3 & 4 Vict. c. 61, s. 1; 32 & 33 Vict. c. 27, s. 4, *supra*, and s. 8). *See* also s. 2, *ibid*.
7. The same not for consumption on the premises (11 Geo. IV, & 1 Will. IV, c. 64, s. 30; 3 & 4 Vict. c. 61, s. 1; 32 & 33 Vict. c. 27, s. 4, *supra*, and s. 8). *See* also 4 & 5 Will. IV, c. 85, s. 15; and 32 & 33 Vict. c. 27, s. 2.
8. Certificate for refreshment house keepers for the sale by retail of wine and sweets for consumption on the premises, (23 & 24 Vict. c. 27, s. 7; 26 & 27 Viet. c. 33, s. 18; 32 & 33 Vict. c. 27, s. 4, *supra*). As to sweets, *see* Licensing Act, 1872, s. 74, p. 321.
9. Certificate for excise license to shop-keepers and licensed wine dealers for the sale by retail of wine and sweets in bottles, not for consumption on the premises, (23 & 24 Vict. c. 27, s. 3; 32 & 33 Vict. c. 27, s. 4), and *see* 38 & 39 Vict. c. 23, s. 9, as to sweets, and definition of license in Licensing Act, 1872, s. 74. A person holding a wine dealer's excise license under 6 Geo. II, c. 81, s. 2, p. 195, for which the annual duty is £10. 10s., is entitled to sell wine by retail to be consumed off the premises, without a justices' certificate, (*Palmer v. Thatcher*, 3 Q.B.D. 346; 42 J.P. 213; 47 L.J.M.C. 54; 37 L.T. 784; 26 W.R. 314).

10. License to holder of wholesale spirit dealer's excise retail license for the sale by retail of spirits and liqueurs, not for consumption on the premises, where the sale takes place in premises which are not occupied and used exclusively for the sale of liquor, or communicate with the premises of, or are occupied by a person carrying on any other trade or business, (24 & 25 Vict. c. 21, s. 2, p. 266; Licensing Act, 1872, ss. 68, 69, 73, pp. 318, 319, 320).

The justices sitting at the General Annual Licensing Meeting have a judicial duty to perform. They have absolute discretion as to the grant or refusal of new, renewed, and transfer licenses for the sale of liquor for consumption on the premises, subject as to renewal and transfer licenses to the exception mentioned below, (*R. v. Lancashire JJ.*, L.R. 6 Q.B. 97; 35 J.P. 170; 40 L.J.M.C. 17; 23 L.T.N.S. 461; 19 W.R. 204; *Sharp v. Wakefield*, 21 Q.B.D. 66; 22 Q.B.D. 239; (1891) A.C. 173; 52 J.P. 292; 53 J.P. 20; 55 J.P. 197; 57 L.J.M.C. 121; 58 L.J.M.C. 57; 60 L.J.M.C. 73; 58 L.T. 494; 60 L.T. 130; 64 L.T. 180; 36 W.R. 634; 37 W.R. 187; 39 W.R. 561). In the case of renewed and transfer licenses, justices have the same absolute discretion, except in those cases where a license for the sale of beer and wine for consumption on the premises has been continuously renewed in respect of the same premises, either to the same or any other person since May 1, 1869, (32 & 33 Vict. c. 27, ss. 8, 19; 33 & 34 Vict. c. 29, s. 7, p. 64), in which case they can only refuse a renewal or transfer on one of the four grounds set out in 32 & 33 Vict. c. 27, s. 8, p. 64. The discretion of justices must be exercised in a reasonable manner, and where they came to the meeting having previously arrived at a general resolution to refuse the renewal of licenses to all persons declining to take out spirits excise licenses, in addition to the license for the sale of beer, it was held that they had wrongly exercised the discretion given to them, (*R. v. Sylvester*, 31 L.J.M.C. 93; 2 B. & S. 322; 26 J.P. 151; 5 L.T. 794; and see *R. v. Walsall JJ.*, 18 J.P. 757; 24 L.T.O.S., 111). As to the determination of questions respecting licenses by the majority of justices present at the meeting, see 9 Geo. IV, c. 61, s. 9, p. 16.

S. 2. The High Constables Act, 1869, (32 & 33 Vict. c. 47), abolishes the office of high constable, and substitutes the justices' clerk as the person to whom the precept is to be directed, in places other than the Metropolitan Police District or the City of London. The manner in which notices are to be sent are prescribed by s. 3, *ibid*, see also ss. 1, 2, 7, *ibid*. As regards precepts relating to borough licenses, see the Municipal Corporations Act, 45 & 46 Vict. c. 50, ss. 6, 7, 246.

S. 4. The recited Acts mentioned in s. 4 of 32 & 33 Vict. c. 27, *supra*, are 11 Geo. IV, & 1 Will. IV, c. 64; 4 & 5 Will. IV, c. 85; 3 & 4 Vict. c. 61, known as The Beerhouse Acts; 24 & 25 Vict. c. 21, (The Revenue (No. 1.) Act, 1861); 26 & 27 Vict. c. 33, (The Revenue Act, 1863), and 23 & 24 Vict. c. 27, (Refreshment Houses Act, 1860). Under these Acts an excise license only for the sale of beer, cider and wine was necessary. This section rendered a justices' certificate necessary as a condition precedent to the grant of an excise license, thereby placing the sale of beer, cider and wine by retail for consumption on and off the premises on the same footing as the sale of liquors under s. 1 of the Alehouse Act, 1828.

Section 5 prescribes the manner of obtaining the certificate, viz., under s. 1, 9 Geo. IV, c. 61, *supra*. The certificate mentioned in this section is not required for a wine dealer's additional license for the sale of wine by retail, not to be consumed on the premises, or for a wholesale spirit dealer's retail license for the sale of liqueurs or spirits, not to be consumed on the premises, where the premises are exclusively used for the sale of intoxicating liquors, (Licensing Act, 1872, s. 73, p. 155).

S. 5. The remainder of this section is repealed by 33 and 34 Vict. c. 29, s. 4, (5), *see* p. 287, and where in ignorance of the repeal, a license was granted under the repealed portion, it was held that s. 5 was not merely directory, and that the license being of no effect, the justices ought to have convicted the grantee of the supposed license for selling without a license under 3 & 4 Vict. c. 61, s. 13, (*Pearson v. Broadbent*, 36 J.P. 485). As to adjournment, *see* 33 and 34 Vict. c. 29, s. 11, p. 9. *See* ss. 1 & 2, *supra*, as to annual licensing meeting, and ss. 3 & 5, pp. 7 & 15 respectively, as to adjournment.

S. 17. This enactment is similar to s. 5, *supra*, which deals with beer, cider and wine licenses, and includes off-licenses for the sale by retail of spirits and sweets by virtue of ss. 69 & 74, Licensing Act, 1872. *See* also s. 63, *ibid*.

ADJOURNMENT OF THE GENERAL ANNUAL LICENSING
MEETING.

3. It shall be lawful for the justices acting at the General Annual Licensing Meeting, and they are hereby required, to continue such meeting by adjournment, to such day or days, and to such place or places within the division or place for which such meeting shall be holden, as such justices may deem most convenient and sufficient for enabling persons keeping inns within such division or place to apply for such license: Provided, nevertheless, that the adjourned meeting to be holden next after such General Annual Licensing Meeting shall not be so holden in or upon any of the five days next ensuing that on which such General Annual Licensing Meeting shall have been holden as aforesaid; and that every adjournment of the said General Annual Licensing Meeting shall be holden within the month of March in the counties of Middlesex and Surrey, and of August or September in every other county.

9 Geo. IV,
c. 61, s. 3.

Adjournment of
meetings.

S. 3. Under this section, twenty-one days' notice may be given before, and application made at, an adjourned meeting. By this means, an applicant living at a distance from the place where the Annual Licensing Meeting, or an adjournment thereof, is held, may wait to make his application, until an adjourned meeting takes place nearer to where he lives, (*R. v. West Riding JJ., Drake's Case*, L.R. 5 Q.B. 33; 34 J.P. 4; 39 L.J.M.C. 17; 10 B. & S. 840).

Where an applicant, having failed to obtain a spirits license on the ground of his not holding a dealer's excise license, obtained the excise license, and renewed his application at adjourned sessions, it was held that the second application ought to be heard, on the authority of *R. v. West Riding JJ., ubi supra*, (*Ex parte Maughan R. v. Kirkdale JJ.*, 1 Q.B.D. 49; 40 J.P. 39; 45 L.J.M.C. 36; 33 L.T. 603; 24 W.R. 205). So where the annual value of premises is deficient, the defect may be remedied, and a new application be made, (*R. v. Montague*, 49 J.P. 55).

9 Geo. IV,
c. 61, s. 3.

Where an application has been refused on grounds personal to the applicant, a new application by another person may be made at an adjourned meeting, and the justices are bound to hear it, (*R. v. West Riding JJ., Drake's Case, ubi supra*; and see judgment of Lush J., as regards the character of the house as distinguished from that of the applicant).

Where an application has been refused at the Annual Meeting on the ground that the house was frequented by prostitutes, the justices are not bound to hear a similar application on the same materials at an adjourned meeting, although a new notice has been given, (*Ex parte Rushworth*, 23 L.T. 120; 34 J.P. 676).

The Annual Licensing Meeting, and every adjournment thereof, together form one meeting in contemplation of law, (*R. v. Anglesea JJ., Ex parte Williams*, 59 J.P. 743; 69 L.J.M.C. 12; *R. v. Armstrong*, 65 L.J.M.C. 35; 12 T.L.R. 159).

The Annual Meeting can only be adjourned to some day within the period prescribed by s. 3, *supra*, except in cases within the proviso to s. 42 (2) Licensing Act, 1872, p. 40, and notes. So, where due notice of opposition was given to the grant of a renewal of a license before the Annual Meeting, on the ground of the applicant having been convicted of permitting drunkenness to take place on his premises, and the licensing justices adjourned the hearing of the application beyond September, pending an appeal to Quarter Sessions against the conviction, it was held that they had no power to so adjourn, and that a *mandamus* must issue, (*Webber v. Birkenhead JJ.*, 61 J.P. 664.)

Where, however, *mandamus* goes to the justices to hear and determine an application at an adjourned meeting, it is not necessary to hold such meeting within the prescribed period, (*R. v. Rochester*, E. B. & E. 1024; 27 L.J. Q.B. 434; *R. v. Miskin Higher JJ.*, 50 J.P. 247; *R. v. Farquhar*, 9 Q.B. 258; 39 J.P. 166).

POSTPONEMENT OF APPLICATIONS FOR GRANT OR RENEWAL OF CERTIFICATES.

33 & 34
Vict. c. 29,
s. 11.

Power to
justices to post-
pone applica-
tions for
renewals.

11. Where any applicant for the grant or renewal of a certificate has, through inadvertence or misadventure, failed to comply with any of the preliminary requirements of the principal Act or this Act, or any

Act incorporated therewith, the justices may, if they shall so think fit, and upon such terms as they think proper, postpone the consideration of the application to an adjourned meeting, and if at such adjourned meeting the justices shall be satisfied that such terms have been complied with, they may proceed to grant or withhold such certificate as if the preliminary requirements of the principal Act had been complied with.

33 & 34
Vict. c. 29,
s. 11.

S. 11. The provisions of this section are limited to the grant or renewal of a certificate, and do not apply to transfers of certificates, which are dealt with in respect of adjournment by s. 4 (4), 33 & 34 Vict. c. 29, p. 287. The preliminary requirements, which the applicant has failed to comply with, are those in the principal Act, *i.e.* 32 & 33 Vict. c. 27, "or any Act incorporated therewith." On a strict construction of these words, it would appear that the provisions of the above section do not apply to the additional requirements made necessary by Licensing Act, 1872.

The above section, so far as regards the grant or renewal of a certificate, extends the powers of justices given by 9 Geo. IV, c. 61, s. 3, wherein the period of adjournment of the General Annual Licensing Meeting is limited to the month of March in Middlesex and Surrey, and of August or September in other counties.

The object for which the adjournment is made under s. 11 is distinct from that prescribed by s. 3, 9 Geo. IV, c. 61, and the adjourned meeting will be occupied solely in hearing those cases which made the adjournment necessary. The justices have power under this section to adjourn not only the Annual Licensing Meeting, but even an adjournment thereof.

The notices of adjournment prescribed by 9 Geo. IV, c. 61, s. 5, are not necessary in the case of an adjournment under s. 11, *supra*.

TRANSFER SESSIONS.

4. The justices assembled at the General Annual Licensing Meeting in every year, shall appoint not less than four nor more than eight special sessions, to be holden in the division or place for which each such

9 Geo. IV,
c. 61. s. 4.

Special sessions
for transferring
licenses to be
appointed.

meeting shall be holden, in the year next ensuing such General Annual Licensing Meeting, at periods as near as may be equally distant, at which special session it shall be lawful for the justices then and there assembled, in the cases and in the manner and for the time hereinafter directed, to license such persons intending to keep inns theretofore kept by other persons being about to remove from such inns, as they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper persons, under the provisions hereinafter enacted, to be licensed to sell excisable liquors by retail, to be drunk or consumed on the premises.

**9 Geo. IV,
c 61, s. 14.**

Provision for
death, change
of occupancy,
or other
contingency.

14. If any person duly licensed under this Act shall (before the expiration of such license) die, or shall be, by sickness or other infirmity, rendered incapable of keeping an inn, or shall become bankrupt, [or shall take the benefit of any act for the relief of insolvent debtors]; or if any person so licensed, or the heirs, executors, administrators, or assigns of any person so licensed, shall remove from or yield up the possession of the house specified in such license; or if the occupier of any such house, being about to quit the same, shall have wilfully omitted, or shall have neglected to apply, at the General Annual Licensing Meeting, or at any adjournment thereof, for a license to continue to sell excisable liquors by retail, to be drunk or consumed in such house; or if any house, being kept as an inn by any person duly licensed as aforesaid, shall be or be about to be pulled down or occupied under the provisions of any Act for the improvement of the highways, or for any other public purpose; or shall be, by fire, tempest, or other unforeseen and unavoidable calamity, rendered unfit for

the reception of travellers, and for the other legal purposes of an inn ; it shall be lawful for the justices assembled as aforesaid at a special session, holden under the authority of this Act, for the division or place in which the house so kept or having been kept shall be situate, in any one of the above-mentioned cases, and in such cases only to grant to the heirs, executors, or administrators of the person so dying, or to the assigns of such person becoming incapable of keeping an inn, or to the assignee or assignees of such bankrupt, or to any new tenant or occupier of any house having so become unoccupied, or to any person to whom such heirs, executors, administrators, or assigns shall by sale or otherwise have *bonâ fide* conveyed or otherwise made over his or their interest in the occupation and keeping of such house, a license to sell exciseable liquors by retail, to be drunk or consumed in such house, or the premises thereunto belonging ; or to grant to the person whose house shall as aforesaid have been or shall be about to be pulled down or occupied for the improvement of the highways, or for any other public purpose, or have become unfit for the reception of travellers, or for the other legal purposes of an inn, and who shall open and keep as an inn some other fit and convenient house, a license to sell exciseable liquors by retail, to be drunk or consumed therein : Provided always, that every such license shall continue in force only from the day on which it shall be granted, until the fifth day of April or the tenth day of October then next ensuing, as the case may be : Provided also, that every person intending to apply, in any of the above-mentioned cases, at any such special session for a license to sell exciseable liquors by retail, to be drunk or consumed on the premises thereunto belonging, in which exciseable liquors shall not have been sold by retail, to be drunk or consumed on the

9 Geo. IV,
c. 61, s. 14.

9 Geo. IV,
c. 61, s. 14.

premises, by virtue of a license granted at the General Annual Licensing Meeting next before such special session, at some time between the hours of ten in the forenoon and of four in the afternoon, affix or cause to be affixed on the door of such house, and on the door of the church or chapel of the parish or place in which such house shall be situate, and where there shall be no church or chapel, on some other public and conspicuous place within such parish or place, such and the like notice as is herein-before directed to be affixed by every person intending to apply at the General Annual Licensing Meeting for a license to sell excisable liquors by retail, to be drunk or consumed in a house not theretofore kept as an inn, and shall in like manner serve copies of the said notice on one of the overseers of the poor, and on one of the constables or other peace officers of such parish or place.

SS. 4 & 14. These sections must be read together. S. 4 deals with applications by the holder of a license, who is about to remove from his licensed house, for the transfer of the license to the incoming tenant, while s. 14 is directed to the application by the incoming tenant himself. In other words, the fourth section "deals with an application by the transferor, the other with an application by the incoming tenant, whom, for the purpose of pointing out this distinction, I may call the transferee," (*per* Cave J., *R. v. Hughes*, (1893), 2 Q.B., at p. 533).

The license must be in force at the time of an application under s. 14, *supra*, (*Simpkin v. Birmingham JJ.*, L.R. 7 Q.B. 482; 36 J.P. 709; 41 L.J.M.C. 102; 26 L.T.N.S. 620; 20 W.R. 702; and *see* the judgment of Blackburn J., as to s. 4, *supra*, at p. 485; but *see R. v. Lawrence and others, infra*). *See* s. 11, 9 Geo. IV, c. 61, now repealed by Licensing Act, 1872, Sched., and s. 74, *ibid*, defining "transfer of a license."

The transferor, *i.e.*, the applicant under s. 4, must give notice under s. 40 (2) Licensing Act, 1872. As to service of notice on the police, *see R. v. Riley*, 53 J.P. 452.

Upon an application under s. 4, *supra*, justices have no power to grant a transfer of a license held by a person who

was not, and had not been in occupation of the licensed premises, which had not been used for the sale of excisable liquors for many years, (*R. v. Cotham and others*, (1898), 1 Q.B. 802). 9 Geo. IV,
c. 61,
ss. 4, 14.

The special sessions prescribed by s. 4 are generally called "transfer sessions," although they are not so described in either the 4th or the 14th sections. The word "transfer" occurred in s. 11, *supra*, now repealed, and in spite of its omission in ss. 4 and 14, the object of the sections is properly described by the words "transfer sessions." But see the judgment of Cave J. in *R. v. Hughes* (1893), 2 Q.B., at p. 532.

These sections apply not only to licenses under 9 Geo. IV, c. 61, but to certificates under the Wine and Beerhouse Acts, (33 & 34 Vict. c. 29, s. 4 (5)), and to certificates for spirits and liqueurs, (Licensing Act, 1872, s. 69), and to sweets, (s. 74, *ibid*).

With regard to the case of an occupier about to quit the house neglecting to apply for a renewal, it has been held that the person entitled to make the application for renewal is the occupier, though he does not hold a license, (*R. v. Lawrence and others, Liverpool JJ.*, 11 Q.B.D. 638; 47 J.P. 596; 52 L.J.M.C. 114; 49 L.T. 244; 32 W.R. 20; *R. v. Market Bosworth JJ.*, 56 L.J.M.C. 103; 51 J.P. 438; 57 L.T. 56; 35 W.R. 629; *Symons v. Wedmore*, 1 Q.B. 401).

As to the proviso at the end of the section, "The only notice required by s. 14 is where the premises for which the license is required have not been previously used as a public-house," (*per* Cave J., in *R. v. Hughes* (1893), 2 Q.B., at p. 533, *supra*). The word "previously" must mean up to the time of the special session.

Notice is necessary (1) where a house is or is about to be pulled down, etc., or is rendered unfit for the reception of travellers by fire, etc., and the license-holder applies for a license for some other house; (2) where application is made after the expiration of the former license. The last paragraph of s. 40, Licensing Act, 1872, applies to these two cases, *see* p. 28.

Where an application for transfer by a new tenant has failed, another new tenant may make an application, (*Ex parte Todd*, 3 Q.B.D. 407; 42 J.P. 662; 47 L.J.M.C. 89, which was overruled on a different point, *infra*).

It is now settled by *R. v. Lawrence and others, supra*, overruling *Ex parte Todd, supra*, and *White v. Justices of*

9 Geo. IV, c. 61, ss. 4, 14. *Coquetdale*, 7 Q.B.D. 238, that it is not necessary to make the application, where the occupier has neglected to apply for renewal, before the expiration of the period for which the old license was in force; and see *R. v. Middlesex JJ.*, L.R. 6 Q.B. 781; 35 J.P. 599; 40 L.J.M.C. 184; 25 L.T.N.S. 41; 19 W.R. 960; see also *Baldwin v. Dover JJ.* (1892), 2 Q.B. 421; 56 J.P. 423; 61 L.J.M.C. 215; and *R. v. Upper Goldcross JJ.*, 53 J.P. 823; 62 L.T. 112.

Where a new tenant obtained a transfer license under s. 14, *supra*, but omitted to apply for a renewal of the license held by the former tenant, it was held that he could not apply again at special sessions as a new tenant, (*R. v. Powell* (1891), 2 Q.B. 693; 56 J.P. 52; 60 L.J.M.C. 594; 65 L.T. 210; 39 W.R. 630).

Where an application for transfer of a beer-house license under s. 14, *supra*, was objected to on the ground that the house was a disorderly house, but the objection was overruled, and the transfer was granted, it was held that the justices sitting to hear an application for renewal in respect of the same house, on the same objection being taken, were not bound by their previous decision, and had jurisdiction to refuse the application, (*Smith v. Shann*, Times, May 25th, 1898).

A person, whose application for renewal has been refused at the Annual Licensing Meeting, is not entitled to apply for a transfer license at the special sessions, (*R. v. Taylor*, L.R. 7 Q.B. 487; 37 J.P. 101; 42 L.J.M.C. 13; *R. v. West Riding JJ.*, 59 J.P. 278; see also *R. v. Welby*, 54 J.P. 183). See 6 Geo. IV, c. 81, s. 21, p. 164, as to the transfer of excise licenses in case of death or removal; and s. 11, *ibid*, p. 213, in the case of destruction, etc., of premises.

Where the owner of premises, from which the licensed person had disappeared, put in a new tenant, who sold liquor supplied by the owner without having obtained a transfer license, on the authority of the owner and the licensed person's wife, the owner was held to have been properly convicted under 11 & 12 Vict., c. 43, s. 5, of aiding and abetting the tenant in selling liquor without a license, (*Owen v. Langford*, 55 J.P. 484, and see Licensing Act, 1872, s. 3, p. 96).

Where the application is for a transfer, in respect of the same privileged house, from one person to another, the discretion of justices is limited to the four grounds by ss. 8 & 19, 32 & 33 Vict. c. 27; *Simonds v. Blackheath*

JJ., 17 Q.B.D. 765, *supra*; but if the application is in respect of a different house, the justices have a general discretion, even though the house from which the license is sought to be transferred is a privileged house, because the privilege attaches to the premises, and not to the person who occupies them, (*Traynor v. Jones* (1894), 1 Q.B., at p. 86. See further as to the discretion of justices, *Boodle v. Birmingham JJ.*, 45 J.P. 635; *Ex parte Minnett*, 51 J.P. 84; see also *Simonds v. Blackheath JJ.*, *ubi supra*; *R. v. Rowell*, L.R. 7 Q.B. 490; 37 J.P. 103; 41 L.J.M.C. 175; 26 L.T. 732).

The justices have the same discretion as to transfers which they possess in regard to renewals and new licenses —(see ss. 8 & 19, 32 & 33 Vict. c. 27, and notes, pp. 67, 68)—that is to say, as regards transfers of indoor beer, cider and wine licenses, in respect of licenses continuously renewed since May 10, 1869, the discretion of justices is limited to the four grounds (s. 19, *supra*); and the same rule applies as regards “off” licenses for wine, liqueurs or spirits, cider and sweets (s. 8, *supra*, and Licensing Act, 1872, ss. 69 & 74, and see notes to ss. 8, 19 and 69, p. 67 *et seq.*).

Subject to the above exceptions, the discretion of justices as to transfers is absolute. See further as to discretion of justices, 9 Geo. IV, c. 61, s. 1, and notes, p. 5.

There is an appeal to quarter sessions from the refusal to grant a transfer under ss. 4 and 14, *supra*; see s. 27, 9 Geo. IV, c. 61, p. 69; *Thornton v. Clegg*, 24 Q.B.D. 132; 59 L.J.M.C. 6; 61 L.T. 562; 38 W.R. 160; 53 J.P. 742.

The words in brackets in s. 14, *supra*, are repealed by 51 and 52 Vict. c. 57.

NOTICE OF ADJOURNMENT AND SPECIAL SESSIONS.

5. Whenever the justices shall have ordered any such adjournment of the General Annual Licensing Meeting, or shall have appointed such special sessions as aforesaid, the day, hour, and place for holding every such adjourned meeting and every such special session shall be appointed by precept of the majority of the said justices directed to the high constable, requiring

9 Geo. IV,
c. 61, s. 5.

Notico to be given of the adjournment of the General Annual Licensing Meeting, and of the appointment of special sessions.

notices, similar in form to those given at the General Annual Licensing Meeting, to be affixed on the door of the church or chapel, or on some other public and conspicuous place, and to be served upon the same parties.

The power to adjourn the General Annual Licensing Meeting, notice of which is required by the above section, is given to justices by 9 Geo. IV, c. 61, s. 3, p. 7. The special sessions have reference to ss. 4, 14, of the same Act, pp. 9, 10.

As to the high constable, *see* notes to s. 2, *ibid*, p. 6.

No notice of adjournment need be given to applicants for renewal of licenses or certificates unless the justices require them to attend in consequence of notice of opposition having been served under Licensing Act, 1872, s. 42, p. 39: Licensing Act, 1874, s. 26, p. 40.

THE MANNER OF DECIDING QUESTIONS RESPECTING LICENSES AND CERTIFICATES AND OF SIGNIFYING THE DECISION.

9 Geo. IV,
c. 61, s. 9.

Questions re-
specting
licenses to be
determined, and
licenses to be
signed, by the
majority of jus-
tices at the
meeting.

9. When (at any of the meetings aforesaid) any question touching the granting, withholding, or transferring any license, or the fitness of the person applying for such license, or of the house intended to be kept by such person, shall arise, such question shall be determined by the majority of justices, not disqualified, who shall be present when such question shall arise; and every license granted under the authority of this Act shall be signed by the majority of the justices, not disqualified, who shall be present when such license shall be granted.

33 & 34
Vict. c. 29,
s. 4 (2).

4. (2.) Where a certificate is now required to be signed by a majority of justices, it shall be sufficient if, instead of such signature, the concurrence of such majority be signified by means of an impression from an official seal or stamp, in such form as the justices may direct, affixed in the presence of the justices in

sessions assembled, and verified in the case of each certificate by the signature of their clerk. Any seal purporting to be so affixed and verified shall be received in evidence without further proof; and if any unauthorised person imitate or affix an impression of such seal on any certificate or imitation of a certificate, or knowingly use a certificate or imitation of a certificate falsely purporting to be sealed in pursuance of this section, he shall be guilty of forgery.

33 & 34
Vict. c 29,
s. 4 (2).

40. (3.) Any license may be authenticated in manner in which a certificate may be authenticated in pursuance of sub-section 2 of section 4 of the Wine and Beer-house Act Amendment Act, 1870, and the provisions of the said sub-section shall apply accordingly.

L.A. 1872
s. 40 (3).

S. 9. The first part of this section does not apply to justices sitting on appeal at quarter sessions, (*Ex parte Evans*, (1894) A.C. 16; 58 J.P. 260; 63 L.J.M.C. 81; 71 L.T. 45). The "meetings aforesaid" are the Annual Licensing Meeting and the special transfer sessions and adjournments thereof. Where a justice had such an interest as might give him a real bias in the matter, it was held that he ought not to have sat as a justice, and it was immaterial what part he really took in the matter, (*R. v. Meyer*, 1 Q.B.D. 173). Where justices are equally divided, see *R. v. Cox*, 48 J.P. 440; *R. v. Monmouthshire*, 4 B. & C. 844; 8 B. & C. 137; *R. v. Belton*, 11 Q.B. 380; *R. v. Rogers*, 56 J.P. 183; and see Licensing Act, 1872, s. 60, p. 18. It is the majority of justices present, and not of those voting, which is to decide the questions submitted to them, (*Garton v. Southampton Justices*, 57 J.P. 328; 9 T.L.R. 430). This case, however, was decided on the assumption that s. 9 was applicable to justices sitting on appeal at quarter sessions. It is clear that s. 9 has no such application, (*Ex parte Evans*, *ubi supra*).

S. 4 (2.) This sub-section provides an alternative to the signature of the majority of justices, as regards certificates, which has been extended to alehouse licenses by s. 40 (3), Licensing Act, 1872. The alternative is "the impression from an official seal or stamp."

JURISDICTION OF JUSTICES.

L.A. 1872,
s. 61.Extension of
jurisdiction of
justices over
river and water,
&c.

61. For all the purposes of this Act any pier, quay, jetty, mole, or work extending from any place within the jurisdiction of any licensing justices or court of summary jurisdiction into or over any part of the sea, or any part of a river within the ebb and flow of the tide, shall be deemed to be within the jurisdiction of such justices and court.

For the purpose of jurisdiction in any proceeding under this Act, any river or water which runs between or forms the boundary of two or more licensing districts, or of the jurisdiction of two or more courts of summary jurisdiction, shall be deemed to be wholly within each such licensing district and the jurisdiction of each of such courts.

Justices have, apart from s. 61, jurisdiction to take cognisance of offences committed on that part of the sea-shore lying between high and low watermark, whether covered with water or not, such a part being within the adjoining county, (*Embleton v. Brown*, 3 E. & E. 234; 30 L.J.M.C. 1; see also 42 & 43 Vict. c. 49, s. 46, which enlarges the area of jurisdiction).

DISQUALIFICATION OF JUSTICES.

L.A. 1872,
s. 60.Disqualification
of justices to
act under this
Act.

60. No justice shall act for any purpose under this Act or under any of the Intoxicating Liquor Licensing Acts, except in cases where the offence charged is that of being found drunk in any highway or other public place, whether a building or not, or on any licensed premises, or of being guilty while drunk of riotous or disorderly conduct, or of being drunk while in charge, on any highway or other public place, of any carriage, horse, cattle, or steam engine, or of being drunk when in possession of loaded fire-arms, who is or is in partnership with or holds any share in any company which is a common brewer, distiller, maker of malt for

sale, or retailer of malt or of any intoxicating liquor in the licensing district or in the district or districts adjoining to that in which such justice usually acts; and no justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Acts, in respect of any premises in the profits to which such justice is interested, or of which he is wholly or partly the owner, lessee, or occupier or for the owner, lessee, or occupier of which he is manager or agent. L. A. 1872,
s. 60.

Any justice hereby declared not to be qualified to act under this Act who knowingly acts as a justice for any of the purposes of this Act shall for every such offence be liable to a penalty not exceeding one hundred pounds, to be recovered by action in one of Her Majesty's Superior Courts at Westminster:

Provided that—

- (1.) No justice shall be disqualified under this section to act in respect of any premises by reason of his having vested in him a legal interest only, and not a beneficial interest, in such premises or the profits thereof:
- (2.) No justice shall be liable to a penalty for more than one offence committed by him under this section before the institution of any proceedings for the recovery of such penalty:
- (3.) No act done by any justice disqualified by this section shall by reason only of such disqualification be invalid.

7. Whenever at any of the meetings to be holden as aforesaid for any liberty, county of a city, county of a town, city, or town corporate, there shall not be present at least two justices acting in and for any such liberty, county of a city, county of a town, city, or town corporate, who are not disqualified, it shall be lawful for the justices acting in and for the county or counties adjoining to such liberty, county of a city, county of a

**9 Geo. IV,
c. 61, s. 7.**

When in liberties, &c. two justices not disqualified do not attend, the county justices may act.

9 Geo. IV, c. 61, s. 7. town, city, or town corporate, and not disqualified from acting, to act within such liberty or place, and with the justice or justices thereof, not as herein-before disqualified, who shall be present at any such meeting as aforesaid, for the purpose of granting or transferring licenses under, or of hearing complaints as to offences against, this Act; any law, custom, or usage to the contrary notwithstanding.

S. 60. The excepted cases in s. 60 are to be found in s. 12, Licensing Act, 1872, p. 111. The disqualification of justices applies to offences against the Licensing Acts, 1872 & 1874, with the above exception, or against 9 Geo. IV, c. 61; 32 and 33 Vict. c. 27, and 33 & 34 Vict. c. 29; see Licensing Act, 1874, s. 1, and Licensing Act, 1872, s. 74, for definition of "Intoxicating Liquor Licensing Acts."

A brewer voting at the election of a licensing committee at a meeting held under Licensing Act, 1872, s. 38, is liable to the penalty prescribed by s. 60, *supra* (*Attorney-General v. Willett*, 60 J.P. 437; 12 T.L.R. 494). Where a justice was a member of a society whose objects included opposition to transfers of licenses, and heard an application, which was opposed by the solicitor of the society, and refused, the refusal was quashed on *certiorari*, (*R. v. Fraser*, 57 J.P. 500; see also *R. v. Ferguson*, 54 J.P. 101). As to whether *certiorari* or *mandamus* is the proper remedy, see *R. v. Kent JJ.*, 44 J.P. 298; but see *R. v. London County Council*, (1892) 1 Q.B. 190; 61 L.J.M.C. 75; 66 L.T. 168; 40 W.R. 285; 56 J.P. 8.

Nothing being said in the section as to who may recover the penalty, the Crown alone may maintain a suit for it, (*Bradlaugh v. Clarke*, 8 App. Cas. 354).

S. 7. The disqualification referred to in this section is now that contained in s. 60, *supra*.

THE LICENSING COMMITTEE IN COUNTIES AND BOROUGHES.

Amendment of law as to grant of licenses.

L.A. 1872,
s. 37.

Licensing committee of justices in counties.

37. In counties a grant of a new license shall not be valid unless it is confirmed by a standing committee of the county justices, in this Act called the county licensing committee.

The justices in quarter sessions assembled for every county shall annually appoint from among themselves for the purposes of this Act a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient. L.A. 1872,
s. 37.

A county licensing committee shall consist of not less than three nor more than twelve members.

The quorum of a county licensing committee shall be three members.

Any vacancies arising in any such committee from death, resignation, or other causes, may be from time to time filled up by the justices in quarter sessions by whom the committee is appointed.

A county licensing committee shall be deemed to be a standing committee of the quarter sessions by whom they are appointed for the year succeeding their appointment, and their jurisdiction and proceedings shall not be affected by the termination of the sessions at which they were appointed. The members of a committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the committee until their successors are appointed.

The justices in quarter sessions shall make such regulations with respect to the meetings of any such committee and the transaction of business thereat as they may think fit.

The clerk of the peace of the county shall by himself or his deputy be the clerk of the county licensing committee or committees, and shall perform all such duties in relation to any such committee or committees as he is required by law to perform in relation to the justices in quarter sessions assembled.

L.A. 1874,
s. 32.

32. "A new license" means a license for the sale of any intoxicating liquor granted at a General Annual Licensing Meeting in respect of premises in respect of which a similar license has not theretofore been granted.

L.A. 1872,
s. 38.

Licensing
committee of
justices in
boroughs.

38. In boroughs in which at the commencement of the time appointed for the annual appointment of a licensing committee in this section mentioned there are ten justices acting in and for such borough or upwards, new licenses shall be granted by a committee, who shall for the purpose of such new licenses perform all the duties and be subject to the obligations of licensing justices.

In every such borough as aforesaid the justices acting in and for such borough shall annually in the fortnight preceding the commencement of the period during which the General Annual Licensing Meeting for such borough may be held appoint from among themselves for the purposes of this Act a committee of not less than three nor more than seven in number, but no justice shall be appointed a member of such committee unless he is qualified to act under this Act.

Any vacancies arising in such committee (in this Act referred to as the borough licensing committee) from death, resignation, or other causes, may be from time to time filled up by the justices by whom the committee is appointed.

The quorum of a borough licensing committee shall be three members.

The members of the borough licensing committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the borough licensing committee until their successors are appointed.

The grant of a new license by a borough licensing committee shall not be valid unless it is confirmed by the whole body of borough justices, who would, if this Act had not passed, have been authorised to grant licenses, or by a majority of such body present at any meeting assembled for the purpose of confirming such licenses.

L.A. 1872,
s. 38.

In boroughs in which there are not ten justices acting in and for such borough at such time as aforesaid, new licenses shall be granted by the qualified borough justices, but the grant of a new license by such justices shall not be valid unless it is confirmed by a joint committee appointed in respect of such borough in manner hereinafter mentioned :

A joint committee for any such borough, as last aforesaid, shall consist of three justices of the county in which such borough is situate and three justices of the borough, but no such justice shall be appointed a member of such committee unless he is qualified to act under this Act. The three county justices on a joint committee shall be appointed by the county licensing committee. The same county justices may be appointed members of more than one joint committee under this section. The borough justices on a joint committee shall be appointed by the justices of the borough for which they act, or by the majority of such justices assembled at any meeting held for that purpose. Any casual vacancy arising in the joint committee from death, resignation, or other cause, may from time to time be filled up by the justices by whom the person creating such vacancy was appointed. The quorum of the joint committee shall be five members. The senior magistrate on the joint committee present at any meeting shall be its chairman ; and in the event of an equal division of the committee the chairman shall have a second vote.

**L.A. 1872,
s. 38.**

No objection shall be made to any licenses granted or confirmed in pursuance of this section on the ground that the justices or committee of justices who granted or confirmed the same were not qualified to make such grant or confirmation.

From and after the passing of this Act, the justices of a county shall not for licensing purposes, save in so far as respects the power of appointing members of a joint committee, have any jurisdiction in a borough in which the borough justices have for such purposes concurrent jurisdiction.

**L.A. 1874,
s. 21.**

Supply of
deficiency in
quota of
borough
justices on
Joint Com-
mittee.

21. Where from any reason there are not for the time being three qualified borough justices to form the quota of a joint committee for such borough, in pursuance of section thirty-eight of the principal Act, the deficiency in number of such borough justices shall be supplied by qualified county justices to be appointed by the county licensing committee.

**L.A. 1874,
s. 24.**

Confirmation of
license to sell
liquor not to be
consumed on
the premises
not required.

24. A license to sell any intoxicating liquor for consumption only off the premises shall not require confirmation by any authority.

**L.A. 1872,
s. 39.**

Stipendiary
magistrates
may act as
licensing jus-
tices.

39. Beyond the limits of the jurisdiction of the metropolitan police courts a metropolitan police or stipendiary magistrate may act as one of the justices empowered to grant or confirm licenses so far as regards any licensing district wholly or partly within his jurisdiction.

S. 37. This section, which deals with new licenses and certificates for consumption on the premises in counties only, does not alter the procedure under s. 1, 9 Geo. IV, c. 61, but renders it necessary to supplement the grant of a new license at the General Annual Licensing Meeting by an application for confirmation of the grant by the county licensing committee.

The discretion of the confirming authority is identical with the discretion of justices at the annual licensing meeting, (*re Annandale JJ.*, 37 J.P. 85; *R. v. Middlesex JJ.*, 42 J.P. 469).

There is no appeal to quarter sessions from the grant or refusal of a new license, the provisions as to appeal in 9 Geo. IV, c. 61, ss. 27-29, having been repealed so far as regards new licenses by Sched. II., Licensing Act, 1872; and by s. 27, Licensing Act, 1874, no appeal lies with respect to the grant of new certificates under the Wine and Beerhouse Acts, 1869 and 1870.

S. 32. The definition of a new license in s. 74, Licensing Act, 1872, was repealed by s. 33, Licensing Act, 1874. The word "similar" in s. 32 was probably introduced to meet the case, where a person, previously licensed to sell certain kinds of liquor, *e.g.*, wine and beer, has obtained a license to sell all intoxicating liquors, and seeks to treat the latter license as a renewal of the former instead of as a new license and thus avoid the necessity for confirmation, *see Marwick v. Codlin*, L.R. 9 Q.B. 509, which was decided on the definition in Licensing Act, 1872, s. 74.

S. 38. This section prescribes the authority to which application must be made for the grant of a new license in boroughs possessing (1) ten justices or more, (2) less than ten justices acting in and for such borough fourteen days before the first lawful day for holding the General Annual Licensing Meeting.

- (1) The authority, where there are ten justices, must consist of a committee, called the licensing committee, of not less than three nor more than seven qualified justices appointed from among themselves by the justices of the place. As to disqualification of justices, *see* s. 60, Licensing Act, 1872, p. 18, and notes. The grant of a new license by this authority will not be valid until it has been confirmed by a majority of the whole body of borough justices present at a meeting for the confirmation of licenses.
- (2) When there are less than ten justices acting for the borough, new licenses must be granted by the qualified borough justices. This part of the section makes no alteration of s. 1, 9 Geo. IV, c. 61, as to the justices to whom application is to be made in the first instance, but the grant will not

be valid until it has been confirmed by a joint committee, which must consist of three qualified justices of the county in which the borough is situated appointed by the County Licensing Committee (*see* s. 37, *supra*), and three qualified justices of the borough appointed by the justices of the borough assembled at a meeting held for that purpose.

S. 24. Until the Act of 1874 was passed, ss. 37 & 38 applied to licenses for consumption both on and off the premises as regards confirmation. Now, by s. 24, *supra*, no confirmation is necessary in the case of a license or certificate for consumption off the premises.

CONFIRMATION OF LICENSES.

**L.A. 1872,
s. 43.**

Confirmation of
licenses.

43. Any person who appears before the licensing justices and opposes the grant of a new license, and no other person, may appear and oppose the confirmation of such grant by the confirming authority in counties or boroughs; and the confirming authority may award such costs as they shall deem just to the party who shall succeed in the proceedings before them. In a county the justices in quarter sessions assembled, and in a borough the borough justices shall make rules as to the proceedings to be adopted for confirmation of new licenses and the costs to be incurred in any such proceedings, and the person by whom such costs are to be paid.

**L.A. 1874,
s. 25.**

Joint committee
to make rules
under s. 43 of
principal Act.

25. Where the confirming authority is a joint committee, that committee shall make rules in pursuance of section forty-three of the principal Act as to the proceedings to be adopted for the confirmation of new licenses, and as to the costs of such proceedings, and the persons by whom such costs are to be paid.

The discretion of the confirming authority is absolute, and not merely ministerial, (*R. v. Annandale Licensing Committee*, 37 J.P. 85; *R. v. Middlesex JJ.*, 42 J.P. 469; *R. v. Pownall*, 54 J.P. 438).

In *R. v. Pownall*, (1893) 2 Q.B., at p. 163, Wright, J., doubted whether the justices had jurisdiction to consider the sufficiency of notices under s. 7, 32 & 33 Vict. c. 27. As to the making of rules, see *R. v. Bird, ex parte Needes*, Times, May 3, 1898. As to the meaning of "county," see Licensing Act, 1872, s. 74, p. 322.

Costs are recoverable under 11 & 12 Vict. c. 18, ss. 18 and 26, and 42 & 43 Vict. c. 49, ss. 47, 54, see Licensing Act, 1872, s. 51, p. 146.

NEW LICENSES AND TRANSFER.

40. Every person intending to apply for a new license, or to apply for the transfer of a license, shall publish notice of such application as follows; that is to say,

**L.A. 1872,
s. 40.**

Regulations as to new licenses and transfer of licenses.

- (1.) In the case of a new license, he shall cause notice thereof to be given and to be affixed and maintained in manner directed by section seven of "The Wine and Beerhouse Act, 1869," and any enactment amending the same, and shall advertise such notice in some paper circulating in the place in which the premises to which the notice relates are situate, on some day not more than four and not less than two weeks before the proposed application, and on such day or days, if any, as may be from time to time fixed by the licensing justices:
- (2.) In the case of the transfer of a license he shall, fourteen days prior to one of the special sessions appointed by the justices for granting transfers of such licenses, serve a notice of his intention to transfer the same upon one of the overseers of the parish, township, or place in

L.A. 1872,
s. 40.

which the premises in respect of which his application is to be made are situate, and on the superintendent of police of the district. This notice shall be signed by the applicant or by his authorised agent, and shall set forth the name of the person to whom it is intended that such license shall be transferred, together with the place of his residence, and his trade or calling during the six months preceding the time of serving such notice:

- (3.) Any license may be authenticated in manner in which a certificate may be authenticated in pursuance of sub-section two of section four of "The Wine and Beerhouse Act Amendment Act, 1870," and the provisions of the said sub-section shall apply accordingly. . . . The provision of this section as to notices shall extend to all cases where, under the Intoxicating Liquors Act, 1828, notices are required to be served in a like form to or in the same manner as notices for new licenses.

L.A. 1872,
s. 74.

74. "The transfer of a license" means a transfer made in special sessions in exercise of the power granted to justices by the fourth section of the said Act of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to regulate granting of licenses to keepers of inns, alehouses, and victualling houses in England."

32 & 33
Vict. c. 27,
s. 7.

Notice of
application.

7. Every person intending to apply to the justices for a certificate under this Act shall, twenty-one days at least before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate and to the constable or police officer acting within such parish,

township or place, and shall in such notice set forth his name and address, and a description of the license or licenses for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also within the space of twenty-eight days before such application is made cause a like notice to be affixed and maintained between the hours of ten in the morning and five in the afternoon of two consecutive Sundays on the door of such house or shop, and on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or, if there be no such church or chapel, on some other public and conspicuous place within such parish or place.

32 & 33
Vict. c. 27,
s. 7.

Where application is made to the justices for the grant of a certificate under this Act by way of renewal only, notice in pursuance of this section shall not be requisite.

4. (1.) The seventh section of the principal Act shall be read as if for the words "constable or peace officer acting within such parish, township, or place," there were substituted the words "the superintendent of police of the district," and the notice required by that section to be given to any overseer or constable may be served by a registered letter through the post:

33 & 34
Vict. c. 29,
s. 4 (1).

Amendment of
32 & 33 Vict.
c. 27.

The sections above set out contain the law as to notices before applications for new licenses or certificates or for transfer of the same, *see* definition of "license," Licensing Act, 1872, s. 74. The provisions of s. 7, *supra*, are incorporated into the Licensing Act, 1872, by s. 40, *supra*, with the additional requirement of advertisement in a local newspaper. As to the description of the situation of the premises to be set forth in the notice under s. 7, *supra*, *see* *R. v. Penkridge JJ.*, 56 J.P. 87; 61 L.J.M.C. 132.

The notice before application for transfer of a license prescribed by s. 40 (2), *supra*, is confined to an application by the transferor under 9 Geo. IV, c. 61, s. 4, p. 9, and has no application to the case of an incoming tenant applying under s. 14, *ibid*; (*R. v. Hughes*, (1893), 2 Q.B. 530; 58 J.P. 151; 62 L.J.M.C. 150; 42 W.R. 94; *see also R. v. Wiltshire JJ.*, 57 J.P. 454). Where the application is made by the transferee under 9 Geo. IV, c. 61, s. 14, no notice is necessary, *ibid*.

No notice of an application for renewal of a certificate is necessary, (s. 7, *supra*), or for renewal of a license, *see* notes to Licensing Act, 1872, s. 42, p. 41.

The twenty-one days are computed from the day on which the application is actually heard, *i.e.*, the annual meeting or an adjournment thereof; thus a notice given for the annual meeting, but not being within the time required, will be a good notice for an adjourned meeting if the application is actually heard thereat, (*R. v. Pownall*, (1893), 2 Q.B. 158; *R. v. West Riding JJ.*, L.R. 5 Q.B. 33, *ante*).

Fresh notices may be given for an adjourned meeting when the notices given for the annual meeting prove insufficient, (*R. v. Caulfield*, 46 J.P. 756).

In calculating the twenty-one days, both the day of giving notice and the day of the annual meeting or of its adjournment must be excluded, (*R. v. Shropshire JJ.*, 8 A. & E. 173; *Young v. Higgin*, 6 M. & W. 49, and *see Mercantile Investment and General Trust Co. v. International Co.*, (1893), 1 Ch. 484, *n.*).

As to service of notices, *see* Licensing Act, 1872, s. 70. Where the superintendent of police is not served personally, notice must be sent to his residence or his usual place of business, (*R. v. Riley*, 53 J.P. 432). Notice must be served upon the chief of the police in the district, (*R. v. Birley*, 55 J.P. 88).

OCCASIONAL LICENSES.

L.A. 1872,
s. 29.

Local authority may grant occasional licenses exempting from provisions relating to closing during certain hours.

29. If any licensed victualler or keeper of a refreshment house in which intoxicating liquors are sold, applies to the local authority of a licensing district for a license, exempting him from the provisions of this Act relating to closing premises on any special occasion or occasions, it shall be lawful for such local authority, if in his discretion he thinks fit so to do, to

grant to the applicant an occasional license exempting him from the provisions of this Act relating to closing of premises during certain hours, and on the special occasion or occasions to be specified in the license; and no licensed victualler or keeper of a refreshment-house, to whom an occasional license has been granted under this section, shall be subject to any penalty for the contravention of the provisions of this Act, relating to the closing of premises during the time to which his occasional license extends, but he shall not be exempted by such occasional license from any penalty to which he may be subject by any other provision of this or any other Act of Parliament.

L.A. 1872,
s. 29.

5. The grant of a license under the twenty-ninth section of the Principal Act may be made to any person licensed to sell beer or cider by retail, to be consumed upon the premises, as well as to any licensed victualler or keeper of a refreshment house in which intoxicating liquors are sold.

L.A. 1874,
s. 5.

Exemptions as
to beer-houses.

18. Any person selling or exposing for sale any intoxicating liquor in any booth, tent, or place within the limits of holding any lawful and accustomed fair or any races without an occasional license authorising such sale, shall, notwithstanding anything contained in any Act of Parliament to the contrary, be deemed to be a person selling or exposing for sale by retail intoxicating liquor, at a place where he is not authorised by his license to sell the same, and be punishable accordingly.

L.A. 1874,
s. 18.

Occasional
license required
at fairs and
races.

Provided that this section shall not apply to any person selling or exposing for sale intoxicating liquors in premises in which he is duly authorised to sell the same throughout the year, although such premises are situate within the limits aforesaid.

**L.A. 1874,
s. 19.**

Occasional
licenses—
extension of
time for closing.

19. Whereas by 26 & 27 Vict. c. 33, s. 20, it is provided that the hours during which an occasional license shall authorise the sale of any beer, spirits, or wine, shall extend from sunrise until one hour after sunset: Be it enacted that the said section shall be construed as if in place of the words "sunrise until one hour after sunset," there were inserted the words "such hour not earlier than sunrise, until such hour not later than ten o'clock at night as may be specified in that behalf, in the consent given by the justice for the granting of such occasional license."

**L.A. 1874,
s. 20.**

Offences on
premises with
occasional
licenses.

20. For the purposes of so much of the Principal Act as relates to offences against public order, that is to say, sections twelve to eighteen, both inclusive, and the sections for giving effect to the same, a person taking out an occasional license shall be deemed to be a licensed person within the meaning of the said sections, and the place in which any intoxicating liquors are sold in pursuance of the occasional license, shall be deemed to be licensed premises, and to be the premises of the person taking out such license.

S. 29. *See* Licensing Act, 1872, s. 26, as to the meaning of local authority of a licensing district, p. 89. *See* s. 64, Licensing Act, 1872, p. 60, as to production of order of exemption, and p. 197, as to Excise occasional licenses.

What constitutes a "special occasion" is for the local authority to decide, and the High Court will not interfere with the discretion of justices, (*Devine v. Keeling*, 50 J.P. 551; 34 W.R. 718).

Occasional licenses granted under s. 29 apply to places licensed for music and dancing under 25 Geo. II, c. 36: (38 and 39 Vict. c. 21, s. 1, repealed so far as relates to the administrative county of Middlesex, by 57 & 58 Vict. c. 15, s. 2 (12)).

S. 5. This section extends the provisions of s. 29, *supra*, to persons licensed to sell beer or cider by retail, to be consumed on the premises.

S. 18. This section abolishes an exemption in respect of the sale of liquor at fairs and races, which had continued for many years; see *Hayward v. Holland*, 37 J.P. 376; 28 L.T. 702; 21 W.R. 920. The penalty for an infringement of this section is incurred under s. 3, Licensing Act, 1872, p. 96.

S. 19. See 26 & 27 Vict. c. 33, s. 20; 27 & 28 Vict. c. 18, s. 5, and Licensing Act, 1874, s. 11, p. 87.

S. 20. See ss. 12-18 Licensing Act, 1872, and s. 74, *ibid*, for definition of "licensed premises."

SIX-DAY AND EARLY CLOSING LICENSES.

49. Where on the occasion of an application for a new license or transfer or renewal of a license which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant, at the time of his application, applies to the licensing justices to insert in his license a condition that he shall keep the premises in respect of which such license is or is to be granted closed during the whole of Sunday, the justices shall insert the said condition in such license.

**L.A. 1872,
s. 49.**

Provisions as to
six-day licenses.

The holder of a license in which such condition is inserted (in this Act referred to as a six-day license) shall keep his premises closed during the whole of Sunday, and the provisions of this Act with respect to the closing of licensed premises during certain hours on Sunday, shall apply to the premises in respect of which a six-day license is granted as if the whole of Sunday were mentioned in those provisions, instead of certain hours only.

The holder of a six-day license may obtain from the Commissioners of Inland Revenue any license granted by such Commissioners, which he is entitled to obtain in pursuance of such six-day license, upon payment of six-seventh parts of the duty which would otherwise be payable by him for a similar license not limited to

L.A. 1872, six days; and if he sell any intoxicating liquor on
s. 49. Sunday he shall be deemed to be selling intoxicating liquor without a license.

The notice which a licensed person is required to keep painted or fixed on his premises shall, in the case of a license under this section, contain words indicating that such license is for six days only. In calculating the amount to be paid for a six-day license any fraction of a penny shall be disregarded.

L.A. 1874, **10.** Provided that no person holding
s. 10. a six-day license shall sell any intoxicating liquor on Sunday to any person whatever not lodging in his house.

Saving as to
lodgers.

L.A. 1874, **7.** Where, on the occasion of any application for
s. 7. a new license, or the removal or renewal of a license which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant applies to the licensing justices to insert in his license a condition that he shall close the premises in respect of which such license is or is to be granted, one hour earlier at night than that at which such premises would otherwise have to be closed, the justices shall insert the said condition in such license.

Early closing
licenses.

The holder of a license in which such condition is inserted (in this Act referred to as an early closing license) shall close his premises at night one hour earlier than the ordinary hour at which such premises would be closed under the provisions of this Act, and the provisions of this Act and the principal Act shall apply to the premises, as if such earlier hour were the hour at which the premises are required to be closed.

The holder of an early closing license may obtain from the Commissioners of Inland Revenue any license granted by such Commissioners, which he is entitled

to obtain in pursuance of such early closing license, upon payment of a sum representing six-sevenths of the duty which would otherwise be payable by him for a similar license not limited to such early closing as aforesaid. In calculating the six-sevenths fractions of a penny shall be disregarded. L.A. 1874,
s. 7.

The notice which a licensed person is required by section eleven of the principal Act, to keep painted or fixed on his premises, shall, in the case of an early closing license, contain such words as the licensing justices may order, for giving notice to the public that an early closing license has been granted in respect of such premises.

8. A person who takes out a license containing conditions rendering such license a six-day license, as well as an early closing license, shall be entitled to a remission of two-sevenths of the duty. L.A. 1874,
s. 8.

Remission of
duty in case of
six-day and
early closing
license.

S. 49. Having regard to the definition of "transfer of a license," in Licensing Act, 1872, s. 74, p. 321, and the decision in *R. v. Hughes* (1893), 2 Q.B. 530, that part of s. 49, which deals with the transfer of a license, seems to apply only to the case where the transferor is the applicant under s. 4, 9 Geo. IV., c. 61, and not to the case of an application by a proposed transferee, under s. 14, *ibid*, see notes to those sections, p. 12.

S. 49 appears to have been founded on the idea, that an obligation is imposed on a licensed person to keep open his premises for the whole time during which his premises are allowed to be open. An innkeeper's obligation towards the public extends only to the supply of food, meat, and drink (not necessarily intoxicating liquor), and accommodation for travellers. As to who is a traveller, see *Lamond v. Richard* (1897), 1 Q.B. 541.

If the innkeeper fails in this respect, he renders himself liable to indictment at Common Law, or to an action for damages, (*R. v. Ivens*, 7 C. & P. 213; *R. v. Luellin*, 12 Mod. 445; 1 Show. 270; *Hawthorn v. Hammond*, 1 C. & K. 404; *Howell v. Jackson*, 6 C. & P. 725). Other licensed persons, however, are under no obligation to supply travellers, and may open and close their premises when

they chose, subject to the restrictions in s. 3, Licensing Act, 1874. No one has a right to insist on being served in a "tavern," which is the term used to distinguish a drinking-shop from an inn, (*R. v. Rymer*, 2 Q.B.D. 136).

As to what constitutes an inn, see *Thompson v. Lacey*, 3 B. & Ald. 283.

A license originally granted subject to the condition in s. 49 can only be renewed as a six-day license; consequently if he desires to do away with the condition, and obtain a full license, the applicant must apply for a new license, instead of a renewal with the condition omitted, (*R. v. Crewkerne JJ.*, 21 Q.B.D. 85; 57 L.J.M.C. 127; 60 L.T. 84; 36 W.R. 629; 52 J.P. 372). A seven-day license may be renewed as a six-day license, but having once undergone such an alteration, it cannot be renewed except as a six-day license, (*R. v. Liverpool JJ.*, 52 J.P. 376).

By the Revenue Act, 1880 (43 & 44 Vict. c. 20), s. 44, s. 49 was extended to the United Kingdom.

S. 10, Licensing Act, 1874, does away with the Common Law liability of an innkeeper, so far as relates to the supply of intoxicating liquor to travellers, but beyond that point his position appears to be unchanged. As to lodgers, see notes to s. 10, *supra*, p. 93.

S. 7. The application for an early closing license can only be granted on an application for a new license or a renewal, and not upon a transfer of a license, as is the case under s. 49, *supra*. Although the cases of *R. v. Crewkerne JJ.*, and *R. v. Liverpool JJ.*, *ubi supra*, were decided on the 49th section, the grounds of the decisions clearly apply to s. 7.

S. 43 (3), 43 & 44 Vict. c. 20, p. 351, allows a reduction of duty in the case of an eating-house keeper applying for a six-days' and early closing license, for the sale of spirits, where he keeps no open drinking bar.

REMOVAL OF LICENSES.

L.A. 1872,
s. 50.

Licenses may
be removed
from one part
of a district to
another, &c.

50. Licenses may be removed from one part of a licensing district to another part of the same district, or from one licensing district to another licensing district within the same county, in manner following:

The application for an order sanctioning removal shall be made by the person desiring to be the holder of the license when removed, and shall be made at a general annual licensing meeting, or any adjournment thereof, to the justices authorised to grant new licenses in the licensing district in which the premises are situated to which the license is to be removed. L.A. 1872,
s. 50.

Notice of the intended application shall be given in the same manner as notice is given of an application for the grant of a new license.

A copy of the notice shall be personally served upon or sent by registered letter to the owner of the premises from which the license is to be removed, and the holder of the license, unless he is also the applicant.

The justices to whom the application is made shall not make an order sanctioning such removal unless they are satisfied that no objection to such removal is made by the owner of the premises to which the license is attached, or by the holder of the license, or by any other person whom such justices shall determine to have a right to object to the removal.

Subject as aforesaid, such justices shall have the same power to make an order sanctioning such removal as they have to grant new licenses; but no such order shall be valid unless confirmed by the confirming authority of the licensing district.

22. Any person interested in any premises about to be constructed or in course of construction for the purpose of being used as a house for the sale of intoxicating liquors to be consumed on the premises may apply to the licensing justices and to the confirming L.A. 1874,
s. 22.

Provisional
grant and
confirmation
of licenses to
new premises.

L.A. 1874,
s. 22. authority for the provisional grant and confirmation of a license in respect of such premises; and the justices and confirming authority, if satisfied with the plans submitted to them of such house, and that if such premises had been actually constructed in accordance with such plans they would, on application, have granted and confirmed such a license in respect thereof, may make such provisional grant and order of confirmation accordingly.

A provisional grant and order of confirmation shall not be of any validity until it has been declared to be final by an order of the licensing justices made after such notice has been given as may be required by the justices at a general annual licensing meeting or a special sessions held for licensing purposes. Such declaration shall be made if the justices are satisfied that the house has been completed in accordance with such plans as aforesaid, and are also satisfied that no objection can be made to the character of the holder of such provisional license.

A provisional grant and confirmation of a license shall be subject to the same conditions as to the giving of notices and generally as to procedure to which such grant and confirmation would be subject if they respectively were not provisional, with this exception, that where a notice is required to be put up on a door of a house such notice may be put up in a conspicuous position on any part of the premises.

This section shall, with the necessary variations, extend to the provisional removal to any premises of an existing license under section fifty of the principal Act.

S. 50. The application for the removal of a license under this section is on the same footing as that for a new license. Notice must be given under s. 40 (1), Licensing Act, 1872, in addition to the notice prescribed in s. 50; *see* notes to

s. 40 (1), p. 29, and as to new licenses, *see* s. 37, Licensing Act, 1872, p. 20.

In the case of an off-license no confirmation is necessary, (Licensing Act, 1874, s. 24, p. 24). The justices are not capable of refusing an application for removal of a license for the sale of wine, spirits, sweets or cider for consumption off the premises except upon one of the four grounds set out in s. 8, 32 & 33 Vict. c. 27, p. 64.

S. 22. This section, it will be noticed, applies only to the consumption of liquor on the premises. A provisional grant and confirmation of a license is subject to the same conditions as to notices and procedure as the grant and confirmation of a new license, (Licensing Act, 1872, s. 37, p. 20), except that where a notice is required to be put on a door of a house, it may be placed in a conspicuous position on any part of the premises.

The justices are bound to make the final order after the provisional grant has been made if they are satisfied that the house has been completed substantially in accordance with the plans. So, where alterations from the plan were made, but not of a substantial character, the Court held that the justices might make a final order, without the consent of the confirming authority, (*R. v. Pownall*, 54 J.P. 438 ; 62 L.T. 418).

A license granted under s. 22 may be renewed, even although the premises have been completed and an application to the justices for an order declaring the license final has been refused, (*R. v. London County JJ.*, 24 Q.B.D. 341 ; 54 J.P. 213 ; 59 L.J.M.C. 71 ; 62 L.T. 700 ; 38 W.R. 330). An appeal lies to quarter sessions under 9 Geo. IV, c. 61, s. 27, p. 69, against the refusal of justices to renew a provisional license, *ibid.* If the house is not finished within the year the owner may apply for a renewal, *ibid.* An application under this section may be joined with that for removal under s. 50.

RENEWAL OF LICENSES.

42. Where a licensed person applies for the renewal of his license the following provisions shall have effect :

L.A. 1872,
s. 42.

Provisions as
to renewal of
licenses.

- (1) He need not attend in person at the General Annual Licensing Meeting, unless he is required by the licensing justices so to attend.

L.A. 1872,
s. 42.

(2) The justices shall not entertain any objection to the renewal of such license, or take any evidence with respect to the renewal thereof unless written notice of an intention to oppose the renewal of such license has been served on such holder not less than seven days before the commencement of the General Annual Licensing Meeting: Provided that the licensing justices may, notwithstanding that no notice has been given, on an objection being made, adjourn the granting of any license to a future day, and require the attendance of the holder of the license on such day, when the case will be heard and the objection considered, as if the notice hereinbefore prescribed had been given:

(3) The justices shall not receive any evidence with respect to the renewal of such license which is not given on oath.

Subject as aforesaid, licenses shall be renewed and the powers and discretion of justices relative to such renewal shall be exercised as heretofore.

L.A. 1874,
s. 26.

Notices of
adjourned
brewster
sessions and
of intention
to oppose.

26. Whereas by section forty-two of the principal Act it is enacted that a licensed person applying for a renewal of his license need not attend in person at the General Annual Licensing Meeting unless he is required by the licensing justices so to attend: Be it enacted that such requisition shall not be made, save for some special cause personal to the licensed person to whom such requisition is sent. It shall not be necessary to serve copies of notices of any adjournment of a General Annual Licensing Meeting on holders of licenses or applicants for licenses who are not required to attend at such adjourned Annual General Licensing Meeting.

A notice of an intention to oppose the renewal of a license served under section forty-two of the principal Act shall not be valid unless it states in general terms the grounds on which the renewal of such license is to be opposed. L.A. 1874,
s. 26.

SS. 42 & 26. Renewed licenses are granted at the Annual Licensing Meeting by the same justices to whom applications for new licenses are made, *see* 9 Geo. IV, c. 61, s. 1, p. 1.

It will be noticed that s. 42 applies only to the case where the applicant is himself a licensed person and does not deal with such an application for renewal as was held to have been properly made in the case of *Symons v. Wedmore* (1894), 1 Q.B. 401, *see* p. 13; and *see R. v. Liverpool JJ.*, 11 Q.B.D., at p. 645, *per* Brett, M.R., and, therefore, where the licensee was about to leave the premises and a person had obtained an interim authority under 5 & 6 Viet. c. 44, s. 1, p. 45, to carry on the business until the next special sessions for transfer of licenses, it was held that the person having such authority was not a "licensed person" applying for the renewal of his license, and therefore was not entitled to notice of opposition, (*Price v. James*, (1892), 2 Q.B. 428; 56 J.P. 471; 57 J.P. 148; 61 L.J.M.C. 203; 67 L.T. 543; 41 W.R. 57).

An applicant for renewal of a license is not required to give notice of his application, and no notice is necessary before an application for renewal of a certificate under 32 & 33 Vict. c. 27, *see* s. 7, p. 28, but the justices cannot grant a renewal unless there is an applicant before them, (*per* Lord Coleridge, C.J., *Garrett v. Middlesex JJ.*, 12 Q.B.D., at p. 628).

A "special cause personal to himself," *i.e.*, to the licensed person, means a cause requiring his attendance, "and the fact that objection was taken to the renewal of his license would be such a cause. The language of the statute has no reference to the causes which, when the applicant attends in pursuance to the requisition, may operate in the minds of the justices to determine whether his application shall be acceded to or not." (*Per* Lord Herschell in *Sharp v. Wakefield*, (1891), A.C., at p. 186; and *see* judgment of Lord Hannen, at p. 189; but *see Griffiths v. Lancaster JJ.*, 35 W.R. 732; 51 J.P. 453. *See* also 9 Geo. IV, c. 61, s. 12, p. 228.

Where the discretion of justices was limited to the four grounds by ss. 8 & 19, 32 & 33 Vict. c. 27, a notice of objection stating a conviction and irregularities in the conduct of the house was held to sufficiently specify that the applicant would be called upon to give evidence of good character, (*R. v. Birmingham JJ.*, 40 J.P. 132); and where the notice stated that the applicant had been convicted, and the justices refused the renewal on the first ground in s. 8, 32 & 33 Vict. c. 27, no evidence of good character having been given, the applicant appealed to quarter sessions and gave evidence of good character. The court of quarter sessions held that the applicant had sufficiently proved his good character, but nevertheless dismissed the appeal. It was held by the High Court that the notice was sufficiently definite and that as the conviction was some evidence on the first of the four grounds, there was no sufficient reason for interfering with the decision, (*R. v. Lancashire JJ.*, 55 J.P. 279; 64 L.T. 562). The Court of Appeal affirmed the decision as to notice, but reversed the decision of the Divisional Court on the ground that the justices in quarter sessions had refused the renewal, not on account of the character of the applicant, but upon the question whether he was a proper person to keep a beerhouse in Manchester, and in so acting had exceeded their jurisdiction, (*R. v. Lancashire JJ.*, 55 J.P. 580).

Where the justices simply directed the attendance of the applicant specifying none of the four grounds, and refused a renewal without taking evidence on oath or stating the grounds of refusal, it was held that the refusal was without jurisdiction and that on appeal to quarter sessions a renewal ought to have been granted, (*R. v. Eales*, 44 J.P. 553; 42 L.T. 735).

An appeal to quarter sessions being in the nature of a re-hearing, it is competent to the Court to decide the case on any of the objections mentioned in the notice of opposition, (*Whiffen v. Malling JJ.*, (1892), 1 Q.B. 362; 61 L.J.M.C. 82; 65 L.T. 413; 66 L.T. 333; 40 W.R. 293; 55 J.P. 424; 56 J.P. 325; *Ex parte Gorman*, (1894) A.C. 23; 56 J.P. 487; 58 J.P. 316; 63 L.J.M.C. 84; 70 L.T. 46). Where the justices' discretion being unrestricted, notice of opposition on the ground of a conviction was given, but no one appeared to support it and the superintendent of police stated that no complaint had been made since the conviction, although the applicant was neither called upon nor offered himself to give evidence, on the renewal being

refused it was held that the justices had a discretion and had exercised it by their refusal to renew, (*Ex parte Bendall*, 42 J.P. 88).

Where the discretion of justices is not limited to the four grounds, a notice specifying the grounds of objection does not preclude the justices from going into other relevant grounds not stated in the notice, (*per* Wills, J., interpreting *Sharp v. Wakefield*, (1891), A.C. 173, in *R. v. Miskin Higher JJ.*, (1893), 1 Q.B., at p. 279 ; 57 J.P. 263 ; 67 L.T. 680 ; 41 W.R. 252). Notice of opposition will be served in proper time by being served not less than seven days before the adjournment of the Annual Licensing Meeting, if the adjournment meeting is that at which application is to be made, (*R. v. Anglesey JJ.*, (1892), 1 Q.B. 850 ; 56 J.P. 440 ; 61 L.J.M.C. 149). As to adjournment, *see* 9 Geo. IV, e. 61, s. 3, p. 7). The provision as to seven days' notice has no application to an appeal to quarter sessions, (*per* Lord Herschell, L.C., *Ex parte Gorman*, (1894), A.C., at p. 29). As to what constitutes sufficient service of notice of opposition ; *see Ex parte Portingell* (1892), 1 Q.B. 15 ; 56 J.P. 276 ; 65 L.T. 603 ; 61 L.J.M.C. 1 ; 40 W.R. 102 ; and Licensing Act, 1872, s. 70, p. 140.

An objection made privately to justices is not a good "objection made" within the meaning of the proviso to s. 42 (2) ; it is sufficient, however, if made in open court, (*R. v. Merthyr JJ.*, 14 Q.B.D. 584 ; 49 J.P. 213 ; 54 L.J.M.C. 78). When the objection is made in open court, the objector need not state the grounds or the nature of the objection, (*Daykin v. Parker*, (1894) 2 Q.B. 273, 556 ; 63 L.J.M.C. 112, 246 ; 71 L.T. 379 ; 42 W.R. 459, 625 ; 58 J.P. 479, 835) nor need it be in writing or sworn, (*per* Smith, J., *R. v. Redditch JJ.*, 50 J.P., at p. 247).

The licensing justices may themselves make the objection to the renewal of a license, but if they do they must adjourn the meeting, give the applicant notice and require his attendance at the adjournment, (*R. v. Farquhar*, L.R. 9 Q.B. 258 ; 39 J.P. 166, and *see Baxter v. Leeke*, Times, April 21, 1898), but the objection must be made in open court, (*R. v. Anglesey JJ.*, 59 J.P. 743 ; 65 L.J.M.C. 12, *per* Hawkins, J. *See also Ruddick v. Liverpool JJ.*, 42 J.P. 406, and *Gascoyne v. Risley*, 36 W.R. 605).

In *R. v. Anglesey JJ.*, *ubi supra*, Hawkins, J., doubted whether the justices could themselves object. In that case it was decided that where the justices entertained a doubt

as to renewing a license, they might adjourn the meeting, although the applicant had received no notice of objection and none was formally made at the meeting, and that at the adjournment they might entertain an objection made by their direction, if notice of the objection had been served on the applicant. In the following case the justices heard a report from the superintendent of police stating a conviction against the applicant, who was told to attend at the adjournment. Notice to attend was given, but without stating any specific objection and after hearing the superintendent prove the conviction on oath and calling him into their private room, the justices refused the renewal without stating any reason. It was held that the justices had not heard and determined the application, (*R. v. Redditch JJ.*, 50 J.P., 246; see also *R. v. Merthyr JJ.*, 14 Q.B.D. 584, *supra*).

Under s. 42, *supra*, the justices may adjourn the meeting to a day not within the period prescribed by 9 Geo. IV, c. 61, s. 3, p. 7, (*R. v. Denbigh JJ.*, 59 J.P. 708; *R. v. Anglesey JJ.*, *ubi supra*).

In the case of *Daykin v. Parker* (1894), 2 Q.B. 273, *supra*, Charles, J., considered it reasonable that where an objection had been made in open court, the notice of intention to oppose should not be valid unless it stated the grounds of objection in general terms: (at p. 279). It seems doubtful whether this is strictly necessary, but if the applicant is ignorant of the grounds of objection at the adjournment, he may apply for a further adjournment, even though it was in his power to have ascertained from the clerk of the magistrates or the chief constable the nature of the grounds of objection, see the judgment of Kay, L.J. (*Daykin v. Parker* (1894), 2 Q.B., at p. 557).

The justices and not the objector are the persons who are to require the attendance of the applicant under the proviso in sub-s. (2) and therefore the notice should intimate that it is given by the direction of the justices, but the appearance of the applicant in pursuance of a notice without such an intimation will waive the irregularity, (*Whiffen v. Mallings JJ.* (1892), 1 Q.B. 362, *supra*).

Although the justices are not at liberty to receive evidence as to the renewal of licenses except on oath, evidence may nevertheless be taken by admission, *e.g.*, the case of an admitted conviction, (*R. v. Kent JJ.*, 41 J.P. 263).

TRANSFER AT PETTY SESSIONS.

1. At any petty sessions of justices of the peace holden in and for any division of every county and riding and in any hundred of every county not being within such division, and in every liberty, city, town or place within which any inn, alehouse, or victualling house shall be situated, and for which the said justices shall be acting, at any time when no special session shall be holden for any such division, hundred, liberty, city, town or place, it shall be lawful in those cases, where justices of the peace assembled at a special session are empowered, by an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to regulate the granting of licenses to keepers of inns, alehouses, and victualling houses in England," to transfer or grant licenses, before the expiration thereof, to sell exciseable liquors by retail in the same house or premises in respect of which any person had been theretofore duly licensed, for the majority of the justices then present, upon application made to them at any such petty session, by indorsement under their hands and seals on any license which shall have been granted pursuant to the provisions of the said Act at any general licensing meeting, or at any adjournment thereof, to authorise (if they shall deem it proper so to do, after examining upon oath all necessary parties,) any person not disqualified by the said Act, to whom it shall be proposed at the time of such application to transfer or grant any such license, to use, exercise, and carry on the business of a licensed victualler at the same house and on the same premises, and there to sell such exciseable liquors as might theretofore have been lawfully sold and retailed therein; and thereupon it shall be lawful for the officer of excise empowered to transfer licenses by indorsement on the excise licenses

5 & 6 Vict.
c. 44, s. 1.

Empowering
transfer of
licenses by
justices at
petty sessions.

5 & 6 Vict.
c. 44, s. 1.

Proviso as to
the Metro-
politan Police
District.

required to be transferred to give the like authority to the persons so authorised by the magistrate or justices; and the authority so granted shall continue and be in force until the then next ensuing special session which shall be holden for the division, hundred, liberty, city, town, or place within which such house and premises shall be situated, and no longer; at which special session the justices then and there assembled, upon application made to them pursuant to the said Act, touching any transfer or grant of license to the party or parties to whom such authority shall have been so given at petty sessions as aforesaid, shall hear and dispose of such application according to the provisions of the said Act: Provided always, that nothing herein contained shall be construed to empower any justices at petty sessions to give any such authority as aforesaid within any of the divisions assigned or to be assigned to any of the police courts already established or to be established within the Metropolitan police district, except in the borough of *Southwark*; but that any such application as is herein-before directed to be made at petty sessions shall, when the house and premises in respect whereof any license shall have been obtained under the said Act shall be situated within any of the said police court divisions, and not in the borough of *Southwark*, be made to one of the police magistrates sitting at any of the said courts, and such magistrate shall in his discretion grant such authority in the manner and for the time herein-after mentioned: Provided also, that any person or persons who shall be authorised, under the provisions of this Act, to continue to carry on the business of a licensed victualler, shall, after the obtaining such authority, and so long as the same shall continue in force, be subject to all the powers, regulations, proceedings, penalties, and provisions declared by or contained in any Act or Acts in force touching the

regulation, government, or control of licensed keepers of inns, alehouses, and victualling houses, in like manner as if the same had been repealed and re-enacted, and that all penalties and forfeitures imposed by any such Act or Acts shall be applied as directed by the same respectively.

2. Whenever it shall be proved to the satisfaction of any such magistrate or justices at petty sessions, upon any application made as aforesaid, that any license granted pursuant to the said Act, 9 Geo. IV, c. 61, has been lost or mislaid, it shall and may be lawful for the said magistrate or justices to receive a copy of such license, certified to be a true copy under the hand of the clerk to the licensing justices by whom the said license shall have been granted, and to make such indorsement thereon as he or they might make under the provisions of this Act upon the original license; and such indorsement upon the copy so certified shall be as valid and effectual as if the same had been made upon the said license.

5 & 6 Vict.
c. 44, s. 1.

5 & 6 Vict.
c. 44, s. 2.

When licenses
are lost a copy
may be indorsed
and considered
valid.

3. And be it enacted, that for every such certified copy and every such indorsement a fee of two shillings and sixpence, and no more, shall and may be demanded and taken.

5 & 6 Vict.
c. 44, s. 3.

Fee for indors-
ing the copy.

41. Whereas by the second section of the Act of the session of the fifth and sixth years of the reign of her present Majesty, chapter forty-four, the magistrates or justices in petty sessions are empowered in the event of a license being lost or mislaid, to receive a copy of such license, and to deal therewith in manner in the said section mentioned: and whereas it is expedient to extend the power of such magistrates or justices to the reception of a copy of a license in the event of a license being wilfully withheld by the holder thereof: Be it

L.A. 1872,
s. 41.

Amendment of
5 & 6 Vict.
c. 44, with
respect to
licenses wilfully
withheld.

L.A. 1872,
s. 41. enacted, that such section be construed as if after the words "lost or mislaid," there were inserted the words "or if the application is for the grant of a license, has been wilfully withheld by the holder thereof."

47 & 48
Vict. c. 29,
s. 1. 1. Section 41 of the Licensing Act, 1872, shall be construed as if after the words "application is for the grant of a license," there were inserted the words "or for the transfer of a license:" Provided that the magistrates or justices shall be satisfied by evidence submitted to them that the license is withheld without any legal right to withhold the same.

5 & 6 Vict. c. 44, s. 1. The justices are empowered to grant a temporary authority or protection order to carry on the business on the same premises only, and consequently the contingencies provided for in 9 Geo. IV, c. 61, s. 14, p. 10, viz.: where the house is or is about to be pulled down, &c., or has been destroyed by fire, &c., are not within the provisions of this section.

The authority given by justices is not a license and the person obtaining it is not a "licensed person" within s. 42, Licensing Act, 1872, p. 39, (*Price v. James* (1892), 2 Q.B. 28; 61 L.J.M.C. 203; 67 L.T. 543; 41 W.R. 57; 56 J.P. 471; 57 J.P. 148); and inasmuch as no grant or transfer of a license can be made at petty sessions under s. 1, it is difficult to find the reason for the additional words introduced by s. 41, Licensing Act, 1872, and s. 1, 47 & 48 Vict. c. 29. In *Ex parte Phillips*, 42 J.P. 279, it was held that an application to petty sessions under s. 1, was not an "application for the grant of a license," within s. 41 of Licensing Act, 1872, and if the words "or for the transfer of a license," were introduced by the later Act to meet the difficulty met with in that case, such an object does not appear to have been attained, because the justices at petty sessions are equally incapable of transferring as of granting a license.

The owner may in certain cases obtain a temporary authority under Licensing Act, 1874, s. 15, p. 140.

The fact of a temporary authority having been granted to a person in contemplation of the transfer of a beerhouse license and the possession of the premises to him, does not prevent the licensed keeper of such house selling beer until the expiration of his license, (*Andrews v. Denton* (1897), 2 Q.B. 37).

INABILITY TO ATTEND LICENSING MEETINGS.

12. If any person intending to apply at the General Annual Licensing Meeting, or at any adjournment thereof, or at any special session, for any license to be granted under the authority of this Act, or for the transfer of any such license, shall be hindered by sickness or infirmity, or by any other reasonable cause, from attending in person at any such meeting, it shall be lawful for the justices there assembled to grant or transfer such license to such person so hindered from attending, and to deliver the same to any person then present, who shall be duly authorised by the person so hindered from attending to receive the same, proof being adduced to the satisfaction of such justices, who are hereby empowered to examine upon oath into the matter of such allegation, that such person is hindered from attending by good and sufficient cause.

**9 Geo. IV,
c. 61, s. 12.**

Any person hindered from attending any licensing meeting by sickness may authorise another person to attend for him.

4. (5.) Subject to the provisions of this section, all the provisions of the Act, 9 Geo. IV, c. 61, and Acts amending the same relating to grants or transfers of justices' licenses without the attendance of any applicant who is hindered by sickness, infirmity, or other reasonable causes, shall have effect with regard to certificates granted or to be granted under the principal Act and this Act.

**33 & 34
Vict. c. 29,
s. 4 (5).**

S. 12. This section implies that some person must be present on behalf of the applicant who is hindered from attending.

DEFINITIONS OF INTOXICATING LIQUORS.

74. "Intoxicating liquor" means spirits, wine, beer, porter, cider, perry, and sweets, and any fermented, distilled, or spirituous liquor which cannot, according to any law for the time being in force, be legally

**L.A. 1872,
s. 74.**

sold without a license from the Commissioners of Inland Revenue:

- L.A. 1872,** **72.** Nothing in this Act shall affect or apply to—
 s. 72. 3. The sale of spruce or black beer :
 8. The sale of medicated or methylated spirits or
 spirits made up in medicine and sold by medical prac-
 titioners or chemists and druggists.

- 43 & 44** **2.** In this Act each of the following terms shall
Vict. c. 20, have the meaning assigned to it by this section, unless
 s. 2. it is otherwise expressly provided, or there is something
 in the subject or context inconsistent therewith

“Beer” includes ale, porter, spruce beer, and black
 beer, and any other description of beer.

Licenses for the sale of liquor by retail.

- 43 & 44** **40.** For the purposes of this part of this Act the
Vict. c. 20, following terms shall have the meaning assigned to it
 s. 40. in this section :

Meaning of
 terms.

“Cider” includes perry :

“Sweets” includes made wines, mead, and metheg-
 lin :

“Beer” includes cider :

“Wine” includes sweets.

- 48 & 49** **4.** (1.) The term “beer” in the Inland Revenue
Vict. c. 51, Act, 1880, shall be construed to extend to any liquor
 s. 4 (1). which is made or sold as a description of beer or as
 a substitute for beer, and which on analysis of a
 sample thereof at any time shall be found to contain
 more than two per centum of proof spirit.

Extension of
 term “beer” in
 43 & 44 Vict.
 c. 20, and in
 Excise License
 Acts.

(2.) In the construction of any Act relating to
 excise licenses for the sale of beer, unless there is
 something in the subject or context inconsistent there-

with, the term "beer," wherever used in such Act, shall have the meaning assigned to it by section two of the Inland Revenue Act, 1880, as extended by this section.

48 & 49
Vict. c. 59,
s. 4 (2).

2. For the purposes of this Act the term "beer" shall include ale and porter, and the term "cider" shall include perry.

32 & 33
Vict. c. 27,
s. 2.

Definition of
beer and cider.

28. In the construction of any enactment relating to the revenue of excise the expression "sweets or made wines" shall mean any liquor which is made from fruit and sugar or from fruit or sugar mixed with any other material, and which has undergone a process of fermentation in the process thereof.

52 & 53
Vict. c. 42,
s. 28.

Meaning of
"sweets or
made wines."

32. . . . The word "beer" shall in all cases be deemed to include beer, ale, and porter, and the word "cider" shall in all cases be deemed to include cider and perry.

11 Geo. IV,
& 1 Will.
IV, c. 64,
s. 32.

S. 74. As regards "spirits," s. 21, 23 Vict. c. 27, enacts that "any fermented liquor containing a greater proportion than forty per centum of proof spirit shall be deemed and taken to be spirits." See this section, p. 258.

Liquor, containing one ounce of alcohol to every four ounces, was held to be properly treated as wine under 11 and 12 Vict. c. 49, (*Harriss v. Jenns*, 9 C.B. (N.S.) 152; 30 L.J.M.C. 183; 3 L.T. 408; 9 W.R. 36).

S. 72. As to methylated spirits, see 43 & 44 Vict. c. 24, Part II, ss. 116-132; 52 & 53 Vict. c. 42, ss. 25-27, and 53 & 54 Vict. c. 8, Part V, ss. 31-35. Under 52 and 53 Vict. c. 42, s. 27, a license to retail methylated spirits is not to be granted to (among others) a person licensed to retail beer, spirits, wine, or sweets for consumption on the premises.

S. 4 (1) & (2). By virtue of this section, it is an offence against s. 17 of 4 & 5 Will. IV, c. 85, to sell any liquor which is found on analysis to contain more than two per centum of proof spirit, if such liquor is sold under any epithet describing it as beer, whether sold as a substitute for beer or not, (*Howorth v. Minns*, 51 J.P. 7; 56 L.T. 316).

DEFINITION OF SALE BY RETAIL.

L.A. 1872,
s. 74.

74. "Sale by retail" in respect of any intoxicating liquor means the sale of that liquor in such quantities as is declared to be sale by retail in any Acts relating to the sale of intoxicating liquors.

4 & 5 Will.
IV, c. 85,
s. 19.

What is a
retailing of
beer, cider or
perry.

19. Every sale of any beer, or of any cider or perry in any less quantity than four gallons and a half, shall be deemed and taken to be a selling by retail.

23 & 24
Vict. c. 27,
s. 4.

What shall be
deemed selling
by retail.

4. Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

43 & 44
Vict. c. 24,
s. 104.

Meaning of sale
by retail.

104. The sale of spirits in any quantity less than two gallons or less than one dozen reputed quart bottles shall be deemed sale by retail.

4 & 5 Will.
IV, c. 77,
s. 11.

Who shall be
deemed a
retailer of
sweets.

11. And for declaring who shall be deemed a retailer of sweets after the said tenth day of October, one thousand eight hundred and thirty-four, when the said duties on sweets are to cease and determine, be it further enacted: That every person who shall sell or send out any liquor made by infusion, fermentation, or otherwise, from fruit or sugar, or from fruit or sugar mixed with other materials, commonly called sweets or made wines, or any mead or metheglin, in any less quantity than in a whole cask containing fifteen gallons, shall be deemed and taken to be a retailer of sweets, and shall take out a license accordingly.

S. 19. By section 32 of 11 Geo. IV, and 1 Will. IV, c. 64, the word "beer" is to be deemed to include beer, ale, and porter, *see* 4 & 5 Will. IV, c. 85, s. 12. The test of a sale of beer by retail is not the size of the measure in which

it is sold, but the quantity sold at any one time, (*Fairclough v. Roberts*, 24 Q.B.D. 350; 54 J.P. 421; 59 L.J.M.C. 54; 62 L.T. 700; 38 W.R. 330), *see also* 26 & 27 Vict. c. 33, s. 1, and Licensing Act, 1872, s. 3, p. 96. The sale of beer in quantities of less than four-and-a-half gallons is sale by retail, and in four-and-a-half gallons and upwards is wholesale, (*R. v. Jenkins*, 55 J.P. 824; 61 L.J.M.C. 57; 65 L.T. 857; 40 W.R. 318, and *cf.* 35 Geo. III, c. 113, s. 9).

SS. 4, 104. *See Fairclough v. Roberts, ubi supra.*

S. 11. The repeal of 4 & 5 Will. IV, c. 77, by 52 and 53 Vict. c. 42, does not affect the definition in s. 11, which is incorporated by Licensing Act, 1872, s. 74, *supra*. The word "sweets" includes sweets, made wines, mead and metheglin, (33 & 34 Vict. c. 29, s. 3; 43 & 44 Vict. c. 20, s. 40; 52 & 53 Vict. c. 42, s. 28).

QUALIFICATION OF PREMISES LICENSED SINCE 1872.

45. Premises to which at the time of the passing of this Act no license under the Acts recited in the Wine and Beerhouse Act, 1869, authorising the sale of beer or wine for consumption thereupon is attached, shall not be subject to any of the provisions now in force prescribing a certain rent or value or rating as a qualification for receiving any such license.

**L.A. 1872,
s. 45.**

Qualification of
premises for
licenses.

Premises not at the time of the passing of this Act licensed for the sale of any intoxicating liquor for consumption thereupon shall not be qualified to receive a license authorising such sale unless the following conditions are satisfied :

- (a) The premises, unless such premises are a railway refreshment room, shall be of not less than the following annual value :

If situated within the City of London or the liberties thereof, or any parish or place subject to the jurisdiction of the Metropolitan Board of Works, or within the four miles radius from Charing Cross, or within the limits of a town containing a population of not less

L.A. 1872,
s. 45.

than one hundred thousand inhabitants, fifty pounds per annum ; or if the license do not authorise the sale of spirits, thirty pounds per annum :

If situated elsewhere and within the limits of a town containing a population of not less than ten thousand inhabitants, thirty pounds per annum ; or if the license do not authorise the sale of spirits, twenty pounds per annum :

If situated elsewhere and not within any such town as above mentioned, fifteen pounds per annum ; or if the license do not authorise the sale of spirits, twelve pounds per annum :

- (b) The premises shall be, in the opinion of the licensing authority, structurally adapted for the class of license for which a certificate is sought : Provided that no house, not licensed at the time of the passing of this Act for the sale of any intoxicating liquor for consumption on the premises, shall be qualified to have a license thereto authorising such sale, unless such house shall contain, exclusive of the rooms occupied by the inmates of such house, if the license authorise the sale of spirits, two rooms, and if the license do not authorise the sale of spirits, one room, for the accommodation of the public.

L.A. 1872,
s. 65.

65. The population of any area for the purposes of this Act shall be ascertained according to the last published census for the time being.

The first paragraph of s. 45 has been held not to affect the provisions as to rating qualification for houses licensed for the sale of beer and cider for consumption off the premises under 3 & 4 Vict. c. 61, s. 1, but to apply only to premises licensed before the Act or to be licensed under it, for the

Qualification of Premises Licensed Before 1872. 55

sale of intoxicating liquor on the premises, (*R. v. Cumberland JJ.*, 8 Q.B.D. 369; 46 J.P. 7; 51 L.J. Q.B.D. 142; 30 W.R. 178).

See as to the limits of the London County Council's jurisdiction, 18 & 19 Vict. c. 120, ss. 249, 250, Scheds. A., B., C.; 25 & 26 Vict. c. 102, ss. 42, 112.

As to "annual value," see s. 47, Licensing Act, 1872, p. 56.

See as to the meaning of "town," s. 74, Licensing Act, 1872, and s. 32, Licensing Act, 1874.

QUALIFICATION OF PREMISES LICENSED BEFORE 1872.

46. Whereas in certain cases a license under the **L.A. 1872,**
Wine and Beerhouse Acts, 1869 and 1870, is not to **s. 46.**
be granted unless the house and premises in respect of
which such license is granted are of such rent and Annual value
necessary for
obtaining
grant of
license.
value, or are rated to the poor rate on a rent or annual
value of such amount as is respectively in that behalf
stated in the Acts recited in the Wine and Beerhouse
Act, 1869; and it is expedient to substitute in such
cases "annual value" for the said rent, value, or
rating, and to provide for the ascertaining the annual
value of such houses and premises: Be it therefore
enacted that in cases not provided for by the last pre-
ceding section, a license under the Wine and Beer-
house Acts, 1869 and 1870, shall not be granted in
respect of any premises which are not, in the opinion of
the licensing justices who grant such license, of such
annual value as is mentioned in that behalf in the
Acts recited by the Wine and Beerhouse Act, 1869;
and those Acts shall be construed as if "annual value"
were therein substituted for "rent," "value," "rated
on a rent or annual value," and other like expressions.

If at the first General Annual Licensing Meeting
after the passing of this Act the licensing justices are
of opinion that any premises which are licensed for the
sale of intoxicating liquors at the passing of this Act

L.A. 1872,
s. 46. are not of such annual value as authorises the grant of a license for such premises, they may, notwithstanding, renew such license upon the condition, to be expressed in the license, that the holder thereof, before the next General Annual Licensing Meeting, improves the premises so as to make them of sufficient annual value, and if the holder fail to comply with such condition the license shall not be renewed at such next General Annual Licensing Meeting.

L.A. 1872,
s. 47. **47.** The licensing justices shall take such means as may seem to them best for ascertaining the annual value of any premises for the purposes of this Act, and may, if they think fit, order a valuation to be made of such premises by a competent person appointed by them for that purpose, and may order the costs of such valuation to be paid by the applicant for a license.

Mode of
ascertaining
annual value.

The annual value of premises for the purposes of this Act shall be the annual rent which a tenant might be reasonably expected, taking one year with another, to pay for the same, if he undertook to pay all tenants' rates and taxes, and tithe commutation rent-charge (if any), and if the landlord undertook to bear the cost of the repairs and insurance and other expenses (if any) necessary to maintain the premises in a state to command the said rent, and if no license were granted in respect thereof; but no land shall be included in such premises other than any pleasure grounds or flower or kitchen garden, yard, or curtilage usually held and occupied and used by the persons residing in and frequenting the house.

S. 46 does not apply to alehouses already licensed under 9 Geo. IV, c. 61, such houses being exempted by Licensing Act, 1872, s. 45, p. 53, from the provisions as to value, (*R. v. Mann*, L.R. 8 Q.B. 235; 37 J.P. 212; 42 L.J.M.C. 35; 27 L.T. 847; 21 W.R. 329). The provisions of the above section are confined to licenses under the Wine and Beer-house Acts, 1869 & 1870, and the Acts therein recited,

ibid, the effect of the section being to substitute "annual value" for rent, value or rating in respect of beerhouses, cider-houses and wine and refreshment houses holding certificates for consumption of liquor on the premises at the time of the passing of the Licensing Act, 1872, while those houses in respect of which licenses have been obtained after 1872 are governed by Licensing Act, 1872, s. 45, (*see* 3 & 4 Vict. c. 61, s. 1; 32 & 33 Vict. c. 67, ss. 45, 76; and 33 & 34 Vict. c. 111).

S. 47. Where a person occupied a house and shop attached to and communicating with each other, the shop being used for the sale of groceries and beer and the two together being rated in the sum of £15, it was held that the shop was part of the premises occupied with the house within the meaning of s. 1, 3 & 4 Vict. c. 61, and that the value of the shop might be taken into account in ascertaining the rateable value of the house, (*Garretty v. Potts*, L.R. 6 Q.B. 86; 35 J.P. 168; 40 L.J.M.C. 1; 23 L.T. 554; 19 W.R. 127).

Although the valuation is insufficient at the time of the General Annual Meeting, if it is made up to the required amount by the time the case is heard on the adjournment day, it will be sufficient, (*R. v. Montague*, 49 J.P. 55).

As to the recovery of the costs of valuation, *see* s. 51, Licensing Act, 1872, p. 146.

DURATION AND FORM OF LICENSES.

13. Every license which shall be granted under the authority of this Act shall be in force in the counties of *Middlesex* and *Surrey* from the fifth day of *April*, and elsewhere from the tenth day of *October*, after the granting thereof, for one whole year thence respectively next ensuing, and no longer; and every license for the purposes aforesaid, which shall be granted at any other time or place, except as hereinafter excepted, shall not entitle any person to obtain an excise license for selling exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, and shall be utterly void to all intents and purposes.

9 Geo. IV,
c. 61, s. 13.

Form of license.

33 & 34
Vict. c. 29,
s. 4 (5).

4. (5.) Subject to the provisions of this section, all the provisions of the Act, 9 Geo. IV, c. 61, and Acts amending the same, relating to the time for which justices' licenses are to be in force . . . shall have effect with regard to certificates granted or to be granted under the principal Act and this Act.

Form of Licenses.

L.A. 1872,
s. 48.

48. The following regulations shall be made with respect to licenses :

Regulations as
to form of
licenses.

(1.) Every license granted after the commencement of this Act shall be in such form as may from time to time be prescribed by a secretary of state :

(2.) A renewal of a license may be made by an endorsement on the license, or by the issue of a copy of the old license, but in the latter case there shall be endorsed on such copy all convictions made within the previous five years, which are endorsed on the old license.

The Commissioners of Inland Revenue may alter the form of any license granted by them for the sale of intoxicating liquors, in such manner as they may think expedient, for the purposes of bringing such form into conformity with the law for the time being in force.

S. 13. The enactment formerly contained in this section as to the form of licenses is repealed by Licensing Act, 1872, schedule, and the form is now regulated by Licensing Act, 1872, s. 48, *supra*.

For forms of licenses, *see* p. 373.

FEEES FOR LICENSES.

9 Geo. IV,
c. 61, s. 15.

Fees to be paid
for licenses.

15. It shall be lawful for the clerk of the justices, as well at the General Annual Licensing Meeting as also at any special session to be holden under this

Act, to demand and receive from every person to whom a license shall be granted under this Act, for the trouble of such clerk, and for all expenses connected therewith, the sums following, and no more ; *videlicet* for the petty constable or other peace officer, for serving notices, and for all other services hereby required of such petty constable or other peace officer, the sum of one shilling; for the clerk of the justices, for the license, the sum of five shillings; and for preparing the precepts to be directed to the high constable, and notices to be delivered by the petty constable, as required by this Act, the sum of one shilling and sixpence; and every such clerk, who shall demand or receive from any person for such respective fees in this behalf any greater sum, or any thing of greater value than the sums herein-before specified, being in the whole the sum of seven shillings and sixpence, shall for every such offence, on conviction before one justice, forfeit and pay the sum of five pounds.

9 Geo. IV,
c. 61, s. 15.

Penalty for
taking larger
fees.

4. (3.) For every certificate granted by way of renewal under the principal Act or this Act, there shall be payable to the clerk of the justices the sum of four shillings for all matters to be done by such clerk, and one shilling for the constable or officer for service of notices; and if any clerk of justices demand or receive any greater or further fee or payment in respect of any such renewal, whether for himself or for any other officer or person, he shall, upon summary conviction, be liable to a penalty of five pounds:

33 & 34
Vict. c. 29,
s. 4 (3).

Subject to the provisions of this section, all the provisions of the Act 9 Geo. IV, c. 61, and Acts amending the same, relating to the fees payable for justices' licenses, shall have effect with regard to certificates granted or to be granted under the principal Act and this Act.

In addition to the fees prescribed by the above sections, there is a fee of 1/- for registration, (Licensing Act, 1872, s. 36, *infra*). See as to the constables' fees, 35 & 36 Vict. c. 92, s. 7; and 53 & 54 Vict. c. 45, s. 23.

S. 15 includes fees for transfers and renewals of licenses.

PRODUCTION OF LICENSE BY HOLDER.

**L.A. 1872,
s. 64.**

Production of
license by
holder and
penalty for non-
production.

64. Every holder of a license, or of an order of exemption made by a local authority in pursuance of this Act, shall, by himself, his agent, or servant, produce such license or order within a reasonable time after the production thereof is demanded by a justice of the peace, constable, or officer of Inland Revenue, and deliver the same to be read and examined by him. Any person who acts in contravention of this section, shall be liable to a penalty not exceeding ten pounds.

See the definition of "license," Licensing Act, 1872, s. 74, p. 321. An order of exemption is obtained under s. 26, *ibid*, p. 89, and see s. 29, *ibid*, p. 30, as to occasional licenses. As to the production of licenses by persons accused of offences against the Licensing Acts, see s. 55 (1), *ibid*, p. 130.

REGISTER OF LICENSES.

**L.A. 1872,
s. 36.**

Register of
licenses to be
kept in licens-
ing district.

36. There shall be kept in every licensing district by the clerk of the licensing justices of that district a register, to be called the register of licenses, in such form as may be prescribed by such justices, containing the particulars of all licenses granted in the district, the premises in respect of which they were granted, the names of the owners of such premises, and the names of the holders, for the time being, of such licenses. There shall also be entered on the register, all forfeitures of licenses, disqualifications of premises, records of convictions, and other matters relating to the licenses on the register.

Every person applying for a new license, or the renewal of a license, shall state the name of the owner of the premises in respect of which such license is granted or renewed, and such name shall be endorsed on the license, and the person whose name is so stated shall, subject as hereinafter mentioned, be deemed for the purposes of this Act to be the owner of the premises.

L.A. 1872,
s. 36.

A court of summary jurisdiction may, on the application of any person who proves to the court that he is entitled to be entered as owner of any premises in place of the person appearing on the register to be the owner, make an order substituting the name of the applicant, and such order shall be obeyed by the clerk of the licensing justices, and a corresponding correction may be directed to be made on the license granted in respect of the premises of which such applicant claims to be the owner.

Any ratepayer, any owner of premises to which a license is attached, and any holder of a license within a licensing district, shall, upon payment of a fee of one shilling, and any officer of police, and any officer of Inland Revenue in such district, without payment, shall be entitled, at any reasonable time, to inspect and take copies of or extracts from any register kept in pursuance of this section for such district; and the clerk of the licensing justices, and every other person who prevents the inspection or taking copies of or extracts from the same, or demands any unauthorised fee therefor, shall be liable to a penalty not exceeding five pounds for each offence.

The licensing justices may, if they think fit, cause the register kept in pursuance of this section to be divided into parts, and assign a part to any portion of the licensing district; and there shall be paid by each

licensed person to the clerk in respect of such registration the sum or fee of one shilling for every license granted or renewed.

**L.A. 1872,
s. 58.**

Evidence of
endorsement
and register.

58. The registers of licenses kept in pursuance of this Act shall be receivable in evidence of the matters required by this Act to be entered therein. Every endorsement upon a license, and every copy of an entry made in the registers of licenses in pursuance of this Act, purporting to be signed by the clerk to the licensing justices, and (in the case of a copy) to be certified to be a true copy, shall be evidence of the matters stated in such endorsement and entry, without proof of the signature or authority of the person signing the same.

**L.A. 1874,
s. 29.**

Definition of
term "owner."

29. Any person possessing an estate or interest in premises licensed for the sale of intoxicating liquors, whether as owner, lessee or mortgagee, prior or paramount to that of the immediate occupier, shall, on payment of a fee of one shilling to the clerk of the licensing justices, be entitled to be registered as owner or one of the owners of such premises: Provided, that when such estate or interest is vested in two or more persons jointly, one only of such persons shall be registered as representing such estate or interest.

S. 36. As to entry in the register of particulars of conviction by the clerk of the justices, *see* s. 55 (3), Licensing Act, 1872, p. 130. The person who is to keep the register, when there is more than one clerk to the justices, is to be determined by the justices, (s. 74, Licensing Act, 1872, definition of "clerk of the licensing justices").

Where a licensed person is convicted of bribery or treating on his licensed premises, or where a report is made of his having suffered bribery or treating to take place on his licensed premises, the conviction and report respectively are to be entered in the register of licenses, (46 & 47 Vict. c. 51, s. 8).

Names of Licensed Persons to be Affixed to Premises. 63

See 23 Vict. c. 27, s. 16, as to register of licenses in the case of refreshment houses licensed under that Act, and 11 Geo. IV, and 1 Will. IV, c. 64, s. 2, as to registration of excise licenses under the Beerhouse Acts.

By s. 31, Licensing Act, 1872, the second and every subsequent conviction recorded on the license of persons becoming licensed after the passing of the Act shall be recorded in the register against the premises. See s. 13, Licensing Act, 1874, p. 131, as to production of register before passing sentence upon convicted persons.

S. 29. As to protection of owners of licensed premises when tenants are convicted of offences, see s. 56, Licensing Act, 1872, p. 136. Compare the definition of "owner" in s. 74, Licensing Act, 1872, with that in this section.

As to mortgagees, see *Garrett v. Middlesex JJ.*, 12 Q.B.D. 620; 53 L.J.M.C. 81; 32 W.R. 646; 48 J.P. 359; p. 74.

NAMES OF LICENSED PERSONS TO BE AFFIXED
TO PREMISES.

11. Every licensed person shall cause to be painted or fixed, and shall keep painted or fixed on the premises in respect of which his license is granted, in a conspicuous place and in such form and manner as the Commissioners of Inland Revenue may from time to time direct, his name, with the addition after the name of the word "licensed," and of words sufficient, in the opinion of the said commissioners, to express the business for which his license has been granted, and in particular of words expressing whether the license authorises the sale of intoxicating liquor to be consumed on or off the premises only, as the case may be; and no person shall have any words or letters on his premises importing that he is authorised as a licensed person to sell any intoxicating liquor which he is not in fact duly authorised to sell. Every person who acts in contravention of the provisions of this section shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds.

**L.A. 1872,
s. 11.**

Names of
licensed persons
to be affixed to
premises.

L.A. 1874,
s. 28.

28. In the said eleventh section, the expression "licensing justices" shall be deemed to be substituted for the expression "Commissioners of Inland Revenue," and the word "justices" for the word "commissioners."

If the license is one for six days only, the notice must contain words to that effect (s. 49, Licensing Act, 1872). And if the license contains a condition as to early closing under Licensing Act, 1874, s. 7, the nature of the license must be indicated on the notice, *ibid.*

LIMITED DISCRETION OF JUSTICES.

32 & 33
Vict. c. 27,
s. 8.

Provisions of
9 Geo. IV, c. 61,
to apply to
grants of
certificates
under this
Act.

8. All the provisions of the said Act of the ninth year of the reign of King George the Fourth, as to the terms upon which, and the manner in which, and the persons by whom grants of licenses are to be made by the justices at the said General Annual Licensing Meeting, and as to appeal from any act of any justice, shall, so far as may be, have effect with regard to grants of certificates under this Act, subject to this qualification, that no application for a certificate under this Act in respect of a license to sell by retail cider, or wine not to be consumed on the premises shall be refused, except upon one or more of the following grounds; viz.,

- (1.) That the applicant has failed to produce satisfactory evidence of good character:
- (2.) That the house or shop in respect of which a license is sought, or any adjacent house or shop owned or occupied by the person applying for a license, is of a disorderly character or frequented by thieves, prostitutes, or persons of bad character:
- (3.) That the applicant having previously held a license for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct

been at any time previously adjudged disqualified from receiving any such license, or from selling any of the said articles :

32 & 33
Vict. c. 27,
s. 8.

- (4.) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required :

Where an application for any such last-mentioned certificate is refused on the ground that the house in respect of which he applies is not duly qualified as by law is required, the justices shall specify in writing to the applicant the grounds of their decision.

69. A license for the sale of liqueurs or spirits by retail, not to be consumed on the premises, may, when such license is required by this Act, be granted in the same manner in all respects in which a license for selling wine, not to be consumed on the premises, may by law be granted, and an application for such a license shall not be refused except upon one or more of the grounds on which a certificate in respect of a license to sell by retail beer, cider, or wine, not to be consumed on the premises, may be refused.

L.A. 1872,
s. 69.

Licenses for
sale of liqueurs,
&c., by retail
not to be con-
sumed on the
premises.

Whereas, by the enactments described in the schedule to this Act, provision is now made for the holder of a strong beer dealer's wholesale excise license obtaining, on a certificate granted by justices, an additional license for the sale of beer by retail for consumption off the premises, and it is expedient that justices should be at liberty to exercise their discretion respecting the grant of such certificates, as they are in respect of their certificates for licenses for sale of beer to be consumed on the premises, and that such certificates should be granted at the General Annual Licensing Meeting of justices, and not at any other time;

43 Vict.
c. 6.

Be it therefore enacted, etc., as follows :—

**43 Vict.
c. 6, s. 1.**

Justices to have discretion as to licenses for consumption of beer off the premises, 32 & 33 Vict. c. 27.

1. Section eight of the Wine and Beerhouse Act, 1869, (32 & 33 Vict. c. 27) is hereby repealed, so far as the qualification therein contained relates to grants of certificates for such additional licenses as aforesaid ; and the licensing justices shall be at liberty either to refuse such certificates as aforesaid on any grounds appearing to them in the exercise of their discretion sufficient, or to grant the same to such persons as they, in the execution of their statutory powers, and in the exercise of their discretion, deem fit and proper.

**45 & 46
Vict. c. 34,
s. 1.**

1. Notwithstanding anything in section eight of the Wine and Beerhouse Act, 1869, or in any other Act now in force, the licensing justices shall be at liberty, in their free and unqualified discretion, either to refuse a certificate for any license for sale of beer by retail to be consumed off the premises on any grounds appearing to them sufficient, or to grant the same to such persons as they, in the execution of their statutory powers, and in the exercise of their discretion, deem fit and proper.

**32 & 33
Vict. c. 27,
s. 19.**

Existing licenses to be renewed, except in certain cases.

19. Where, on the first of May one thousand eight hundred and sixty-nine, a license under any of the said recited Acts is in force with respect to any house or shop for the sale by retail therein of beer, cider, or wine to be consumed on the premises, it shall not be lawful for the justices to refuse an application for a certificate for the sale of beer, cider, or wine to be consumed on the premises in respect of such house or shop, except upon one or more of the grounds upon which an application for a certificate under this Act in respect of a license for the sale of beer, cider, or wine, not to be consumed on the premises, may be refused, in accordance with this Act :

7. The nineteenth section of the principal Act shall extend to licenses granted by way of renewal from time to time of licenses in force on the first day of May one thousand eight hundred and sixty-nine, whether such licenses continue to be held by the same person or have been or may be transferred to any other person or persons.

33 & 34
Vict. c. 29,
s. 7.

Provision as to
existing
licenses.

4. (4.) It shall be in the discretion of the justices to whom an application for a transfer is made, either to allow or refuse the application, or to adjourn the consideration thereof.

33 & 34
Vict. c. 29,
s. 4 (4).

S. 8. This section limits the discretion of justices, given by 9 Geo. IV, c. 61, s. 1, with regard to applications for a certificate for the sale by retail of cider or wine, not to be consumed on the premises; and by s. 69, Licensing Act, 1872, a similar license in respect of liqueurs or spirits is put on the same footing as the certificate for the sale of wine. By the definition of "license," s. 74, Licensing Act, 1872, a license for the sale of sweets is authorised to be granted in the same manner as if sweets were wine, and wine includes sweets, (43 & 44 Vict. c. 20, s. 40). The result, therefore, of these sections is that, with regard to off-wine, off-cider, off-sweets, and off-liqueurs or spirits licenses, the discretion of justices is restricted to the four grounds above set out. The fourth ground of refusal is only partly applicable to "off"-liqueurs or spirits licenses, no valuation qualification being necessary in 1869.

The word "beer" was struck out of s. 8, *supra*, by 56 and 57 Vict. c. 54.

S. 1. An off-license for the sale of beer by retail was formerly included in the above section; but the discretion of justices was restored by this section, in respect of off-licenses for the sale of beer by retail granted to holders of a strong beer dealer's wholesale excise license, and by s. 1, 45 & 46 Vict. c. 34, in respect of "any license for the sale of beer by retail to be consumed off the premises." Consequently, all licenses for the sale of beer by retail, to be consumed either on or off the premises, are subject to the unqualified discretion of justices given by s. 1, 9 Geo. IV, c. 61, with the exception of indoor licenses in existence on the 1st May, 1869, renewed and transferred from time

to time, (32 & 33 Vict. c. 27, s. 19, and 33 & 34 Vict. c. 29, s. 7, *supra*. See *R. v. Scott*, 22 Q.B.D. 481 ; 53 J.P. 119 ; 58 L.J.M.C. 78 ; 60 L.T. 231 ; 37 W.R. 301).

S. 19. This section limits the discretion of justices to the four grounds of refusal in s. 8, *supra*, with respect to the sale by retail of beer, cider, or wine, to be consumed on the premises, where the licenses were in existence on the 1st May, 1869, and have been renewed from time to time, whether such licenses have been continuously held by the same person, or have been transferred to other persons.

The Acts, 43 Vict. c. 6, and 45 & 46 Vict. c. 34, *supra*, do not affect this section. Consequently, it provides the only instance where an indoor license for the sale of beer is withdrawn from the unqualified discretion of justices, *i.e.*, where the house has been continuously licensed since the 1st May, 1869.

The license must be in force for a continuous period from the 1st May, 1869, up to the date of the application. Should the continuity be broken by omission to apply for a transfer during the term of the license, under 9 Geo. IV, c. 61, ss. 4 & 14 or for renewal, or by forfeiture, the discretion of justices will not be fettered by the four grounds, and the proper mode of application will be for a new certificate, (*Freer v. Murray* (1894), A.C. 576 ; 63 L.J.M.C. 242 ; 58 J.P. 508 ; 71 L.T. 444 ; affirming (1893), 1 Q.B. 635 ; 62 L.J.M.C. 33 ; 57 J.P. 101, 583 ; 67 L.T. 507 ; *R. v. Curzon*, L.R. 8 Q.B.D. 400 ; 42 L.J.M.C. 155 ; 37 J.P. 774 ; 29 L.T. 32 ; 21 W.R. 886 ; *Hargraves v. Dawson*, 35 J.P. 342 ; 24 L.T. 428 ; *R. v. West Riding J.J.*, 21 Q.B.D. 258 ; 52 J.P. 455 ; 57 L.J.M.C. 103 ; 36 W.R. 258).

The words "may be transferred" in s. 7, *supra*, apply not to the power which exists for obtaining a transfer under 9 Geo. IV, c. 61, s. 14, but to the period of time after the passing of the Act, 33 & 34 Vict. c. 29 (*Freer v. Murray*, *ubi supra*).

Where premises had been acquired for a public purpose, the holder of the license, which had been renewed from time to time, applied under s. 14, 9 Geo. IV, c. 61, for a similar license in respect of other premises, to which it was proposed to remove. It was held that the discretion of justices was not limited to the four grounds of refusal, as s. 19 had no application to a house other than that which had been continuously licensed, (*Traynor v. Jones* (1894), 1 Q.B. 83 ; 57 J.P. 724 ; 58 J.P. 182 ; 63 L.J.M.C.

31; 69 L.T. 862; and see *Boodle v. Birmingham JJ.*, 45 J.P. 635; *R. v. Bradford JJ.*, 60 J.P. 265; 74 L.T. 287; see also *Deer v. Wirral JJ.*, 64 L.J.M.C. 85; 43 W.R. 286).

The existence of a license for the sale of beer only, under s. 19, does not limit the discretion of justices to the four grounds upon an application for a certificate in respect of either wine or cider, (*R. v. King*, 20 Q.B.D. 430; 52 J.P. 164; 57 L.J.M.C. 20; 58 L.T. 607; 36 W.R. 600).

Where an application for renewal in respect of a house licensed before May 1, 1869, is refused, the justices must state the ground of refusal; and if they fail to do so, a *mandamus* will issue commanding them to hear and determine the application, (*R. v. Thomas* (1892), 1 Q.B. 426; 56 J.P. 151; 61 L.J.M.C. 141; 66 L.T. 289; 40 W.R. 478; and see *R. v. Sykes*, 1 Q.B.D. 52; 45 L.J.M.C. 39; 40 J.P. 39; 33 L.T. 566; 24 W.R. 141; *Ex parte Smith*, 3 Q.B.D. 374; 42 J.P. 598; 47 L.J.M.C. 104; 26 W.R. 682).

S. 4 (4). This sub-section, which appears at first sight to remove the fetter on the discretion of justices under ss. 8 & 19, *supra*, in respect of applications for transfer, has been held in *Simonds v. Justices of Blackheath*, 17 Q.B.D. 765; 50 J.P. 742; 55 L.J.M.C. 166; 35 W.R. 167, merely to affect the procedure as to adjournment at special sessions for the transfer of licenses.

APPEAL TO QUARTER SESSIONS.

27. Any person who shall think himself aggrieved by any act of any justice, done in or concerning the execution of this act, may appeal against such act to the next general or quarter sessions of the peace holden for the county or place wherein the cause of such complaint shall have arisen, unless such session shall be holden within twelve days next after such act shall have been done, and in that case to the next subsequent session holden as aforesaid, and not afterwards, provided that such person shall give to such justice notice in writing of his intention to appeal, and of the cause and matter thereof, within *five days* next after such act

**9 Geo. IV,
c. 61, s. 27.**

Appeal may be made to the quarter sessions.

9 Geo. IV,
c. 61, s. 27.

shall have been done, and *seven days* at the least before such session, and shall within such five days enter into a recognizance, with two sufficient sureties, before a justice acting in and for such county or place as aforesaid, conditioned to appear at the said session, and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded ; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person if in custody for any offence in reference to which the act intended to be appealed against shall have been done ; and the Court at such session shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs, as to the said Court shall seem meet ; and in case the act appealed against shall be the refusal (to grant or) to transfer any license, and the judgment under which such act was done be reversed, it shall be lawful for the said Court to grant or to transfer such license, in the same manner as if such license had been granted at the General Annual Licensing Meeting, or had been transferred at a special session ; and the judgment of the said Court shall be final and conclusive to all intents and purposes ; and in case of the dismissal of such appeal, or of the affirmation of the judgment on which such act was done, and which was appealed against, the said Court shall adjudge and order the said judgment to be carried into execution, and costs awarded to be paid, and shall, if necessary, issue process for enforcing such order ; provided that no justice shall act in the hearing or determination of any appeal to the general or quarter sessions as aforesaid from any act done by him in or concerning the execution of this act : Provided also, that when any cause of complaint shall have arisen

Judgment of
the quarter
session to be
final.

within any liberty, county of a city, county of a town, city, or town corporate, it shall be lawful for the person who shall think himself so as aforesaid aggrieved to appeal against any such act as aforesaid, if he shall think fit, to the quarter sessions of the county within or adjoining to which such liberty or place shall be situate, subject to all the provisions herein-before contained.

28. When any person shall have given notice of his intention to appeal as aforesaid, and shall have entered into recognizance as herein-before directed, it shall be lawful for the justice before whom such recognizance shall have been entered into to summon any person whose evidence shall appear to him to be material, and to require such person to be bound in recognizance to appear at the said general or quarter session, and to give evidence in such appeal; and in case any such person as aforesaid shall neglect or refuse to obey such summons, or shall refuse to enter into such recognizance, it shall be lawful for such justice as aforesaid, to issue his warrant to apprehend such person so neglecting or refusing to obey such summons, and to bring him before such justice, and if such person shall continue to refuse to enter into such recognizance, to commit him to the common gaol or house of correction of the county or place, for which such justice shall be then acting, there to remain until he shall enter into such recognizance, or shall be otherwise discharged by due course of law.

9 Geo. IV,
c. 61, s. 28.

Justices to bind
parties to
appear to give
evidence at
quarter
sessions.

29. In every case where notice of appeal against the judgment of any justice in or concerning the execution of this act shall have been given, and such appeal shall have been dismissed, or the judgments appealed against shall have been confirmed, or such appeal shall have been abandoned, it shall be lawful for the Court to whom such appeal shall have been

9 Geo. IV,
c. 61, s. 29.

Court to
adjudge costs
of justices in
certain cases.

9 Geo. IV,
c. 61, s. 29.

made or intended to be made, and such Court is hereby required to adjudge and order that the party so having appealed, or given notice of his intention to appeal, shall pay to the justice to whom such notice shall have been given, or to whomsoever he shall appoint, such sum by way of costs as shall, in the opinion of such Court, be sufficient to indemnify such justice from all cost and charge whatsoever to which such justice may have been put in consequence of such justice having had served upon him notice of the intention of such party to appeal; and if such party shall refuse or neglect forthwith to pay such sum, it shall be lawful for the said Court to adjudge and order that the party so neglecting or refusing shall be committed to the common gaol or house of correction there to remain until such sum be paid; and in every case in which the judgment so appealed against shall be reversed, it shall be lawful for such Court, if it shall think fit, to adjudge and order that the treasurer of the county or place in and for which such justice whose judgment, shall have been so reversed shall have acted on the occasion when he shall have given such judgment shall pay to such justice, or to whomsoever he shall appoint, such sum as shall, in the opinion of such Court, be sufficient to indemnify such justice from all costs and charges whatsoever to which such justice may have been so put; and the said treasurer is hereby authorised to pay the same, which shall be allowed to him in his accounts.

L.A. 1874,
s. 27.

No appeal in
certain cases.

27. No appeal shall be had to quarter sessions from any act of any justice with respect to the grant of new certificates under the Wine and Beerhouse Acts, 1869 and 1870.

SS. 27, 28, 29, 9 Geo. IV, c. 61. In all cases where a right of appeal exists from the decision of licensing justices as such, the appeal must be conducted under the

provisions of these sections. Justices sitting as licensing justices are not a court of summary jurisdiction within the Summary Jurisdiction Acts, 1879 and 1884, and the Interpretation Act, 1889, s. 13 (11), (*Boulter v. Kent JJ.*, (1897), A.C. 556; 61 J.P. 532; 66 L.J.Q.B. 787; 46 W.R. 114; overruling *R. v. Glamorganshire JJ.*, (1892), 1 Q.B. 621; 56 J.P. 437; 61 L.J.M.C. 169; 66 L.T. 444; 40 W.R. 436).

Licensing Act, 1872, s. 52, p. 150, does not apply to appeals from licensing justices, but only to orders or convictions of courts of summary jurisdiction, *see Boulter v. Kent JJ.*, *ubi supra*.

SS. 27, 28, 29, 9 Geo. IV, c. 61, are repealed, except in so far as they relate to the renewal of licenses, or to the transfer of licenses under 9 Geo. IV, c. 61, ss. 4, 14, (Licensing Act, 1872, Schedule II.). Consequently there is no right of appeal against the grant of or the refusal to grant a new license. Nor is there any right of appeal against the refusal to grant a new certificate under the Wine and Beerhouse Acts, 1869 and 1870 (Licensing Act, 1874, s. 27, *supra*), or against the grant of a renewed license, (*R. v. Middlesex JJ.*, 3 B. & Ad. 938).

Appeals against the refusal to grant renewals of licenses or certificates, or transfers of the same, are regulated by 9 Geo. IV, c. 61, s. 27, *supra*, and *see* 32 & 33 Vict. c. 27, s. 8, incorporating the provisions of s. 27, *supra*, as regards appeals from justices acting under the Wine and Beerhouse Acts, 1869 and 1870. As to appeal from the refusal of a transfer license, *see Thornton v. Clegg*, 24 Q.B.D. 132; 53 J.P. 213; 59 L.J.M.C. 6; 61 L.T. 562; 38 W.R. 160.

There is nothing in 45 & 46 Vict. c. 34, s. 1, which takes away the right of appeal to quarter sessions from the refusal of justices to renew a certificate for an "off" beer license, (*R. v. Schneider*, 11 Q.B.D. 66; 47 J.P. 596; 52 L.J.M.C. 51; 48 L.T. 482).

Where justices refuse the renewal of a provisional license, granted under Licensing Act, 1872, s. 22, p. 37, an appeal may be made to Quarter Sessions under s. 27, *supra*, (*R. v. London JJ.*, 24 Q.B.D. 341).

A "person who shall think himself aggrieved," means a person immediately aggrieved, as by the refusal of a license to himself, and not a person consequentially aggrieved; therefore, where a person licensed in respect of a house situated near one which had recently been newly licensed, appealed against such grant, he was held to have no right

of appeal, (*R. v. Middlesex JJ.*, 3 B. & Ad. 938), which was decided before the partial repeal of s. 27, by Licensing Act, 1872, Schedule II. On the authority of the same case, the Court was doubtful in the case of *R. v. Surrey JJ.*, 52 J.P. 423, whether a rival publican had any *locus standi* to apply for a *certiorari* to quash a license.

Where a mortgage deed constituted the mortgagees attorneys to do everything necessary to procure a transfer of the license, it was held that the mortgagees were persons aggrieved by a refusal to renew and were entitled to appeal, although the licensee declined to appeal himself, (*Garrett v. Middlesex JJ.*, 12 Q.B.D. 620; 53 L.J.M.C. 81; 48 J.P. 358; 32 W.R. 646; but see *R. v. Andover JJ.*, 16 Q.B.D. 711; 50 J.P. 549; 55 L.J.M.C. 143; 55 L.T. 33; 34 W.R. 456). As to an owner's right of appeal to quarter sessions from the refusal of a license at petty sessions under Licensing Act, 1874, s. 15, p. 140, see *R. v. West Riding JJ.*, 11 Q.B.D. 417; 48 J.P. 149; 52 L.J.M.C. 99; and see notes to s. 15, *supra*, p. 142.

The appeal from a refusal to renew or transfer a license lies to the county quarter sessions, (*R. v. Deane*, *R. v. Reading JJ.*, 2 Q.B. 96; *R. v. Recorder of Bristol*, 4 E. and B. 265; 24 L.J.M.C. 43; 19 J.P. 342). The hearing of an appeal cannot be adjourned to a subsequent sessions, for the purpose of awarding costs there after taxation in the interval, (*R. v. Belton*, 11 Q.B. 379; 12 J.P. 232; 17 L.J. M.C. 70); but where the hearing is not limited by Act of Parliament to one sessions, it may be adjourned to the next sessions, for the purpose of procuring additional evidence or for any cause which makes an adjournment expedient, (*R. v. Cambridge Union*, 1 B. & S. 61; 30 L.J.M.C. 137; 4 L.T. 212; 9 W.R. 599), and see *Rawnsley v. Hutchinson*, L.R. 6 Q.B. 89; 40 L.J.M.C. 97; 35 J.P. 501, distinguishing *R. v. Belton*, *ubi supra*. When justices at quarter sessions are equally divided, since there is no power of adjournment (*R. v. Belton*, *ubi supra*), the practice is for one justice to withdraw, and where this was done, and the case was decided by the justices who remained, it was held that the appeal had been heard and determined, and that the appellant was not entitled to a *mandamus*, (*Ex parte Evans*, (1894) A.C. 16, p. 17), but where a justice does not withdraw under such circumstances the decision appealed against will stand, (*Ibid*: 57 J.P. 488; *R. v. Belton*, *ubi supra*).

Where justices refused a certificate for renewal under 32 & 33 Vict. c. 27, s. 19, p. 66, on the ground

that the applicant had failed to produce satisfactory evidence of good character, it was held that fresh evidence of character was admissible on appeal to quarter sessions, and that, assuming it to be satisfactory, the appellant was entitled to a certificate, (*R. v. Pilgrim*, L.R. 6 Q.B. 89 ; 35 J.P. 167 ; 40 L.J.M.C. 3 ; 23 L.T. 410 ; 19 W.R. 99).

The appellant must give notice in writing of his intention to appeal, to the justices whose decision is appealed, within five days after such decision, and fourteen clear days at least before the date of the sessions, to which his appeal is to be made, (9 Geo. IV, c. 61, s. 27, *supra* ; 12 and 13 Vict. c. 45, s. 1). Sunday must be included in the five days' notice (*Ex parte Simpkin*, 2 E. & E. 392 ; 29 L.J.M.C. 23 ; 24 J.P. 262 ; 6 Jur. N.S. 144). The fourteen days' notice must be signed by the appellant, or his attorney, or the attorney's clerk with the appellant's authority, (*R. v. Kent JJ.*, L.R. 8 Q.B. 305 ; 42 L.J.M.C. 112 ; 21 W.R. 635). The grounds of appeal must be specified in the notice, and the appellant will be limited to the grounds so specified on the hearing of the appeal, (s. 1, *ibid*, but see s. 3, *ibid*, as to amendment). As to the five days' notice, see *R. v. Middlesex JJ.*, 12 L.J.M.C. 59 ; 7 Jur. 396 ; and as to the fourteen days' notice, see *Asprell v. Lancashire JJ.*, 16 Jur. 1067, and *R. v. Middlesex JJ.*, *ubi supra*.

Since it has been decided that licensing justices are not a court of summary jurisdiction, (*Boulter v. Kent JJ.*, *ubi supra*), it appears that notice must be given to all the justices who decided the case appealed against, and service on their clerk will not be sufficient as held in *R. v. Essex JJ.*, (1892), 1 Q.B. 490. Notice may be served either personally or at the justice's dwelling-house, (*R. v. Yorkshire JJ.*, 7 Q.B. 154 ; 14 L.J.M.C. 91).

Notice of appeal need not be given to an objector who has given notice of opposition under Licensing Act, 1872, s. 42, p. 39, since the question to be decided is not one *inter partes*, (*Boulter v. Kent JJ.*, *ubi supra*). The result of this case appears to be that an objector has no *locus standi* on appeal, but see *R. v. Purdey*, 5 B. & S. 909.

It is not competent for the court of quarter sessions to make rules imposing conditions as to appeals additional to those imposed by statute, (*R. v. Pawlett*, L.R. 8 Q.B. 491 ; 37 J.P. 775 ; 29 L.T. 390).

An appeal to quarter sessions being in the nature of a re-hearing, the Court may decide the case on any objection raised by a notice of opposition, (*Whiffen v. Malling JJ.*,

(1892), 1 Q.B. 362; *Ex parte Gorman*, (1893), A.C. 23; 58 J.P. 316; 70 L.T. 46; 63 L.J.M.C. 84), but the justices may not decide the case on grounds outside the original notice, (*Whiffen v. Malling*, *supra*, per Lord Esher, at p. 368). When notice of opposition has not been given within the prescribed time, *i.e.*, seven days, and appeal is made to quarter sessions, a notice served seven days before the hearing of the appeal will not be valid, (*Hockings v. Powell*, 55 J.P. 358).

S. 28. As to amendment of recognizances, *see* 12 & 13 Vict. c. 45, s. 8, and *see* the last-mentioned Act generally as regards appeals.

S. 29. The court of quarter sessions may make such order with or without costs as it shall think fit, and *see* 12 and 13 Vict. c. 45, s. 5; *R. v. Hunlley*, 3 E. & B. 172; 23 L.J.M.C. 106. *See also Freeman v. Read*, 9 C.B. (N.S.) 301; 30 L.J.M.C. 123; 9 W.R. 141, 7 Jur. (N.S.) 546, as to standing orders with regard to costs.

Where the appeal to quarter sessions has been dismissed or abandoned, or the judgment appealed against has been affirmed the justices are to award such costs to be paid by the appellant to the justices, from whose decision he has appealed, as shall indemnify the justices from the expenses to which they have been put by reason of the appeal. Where the appeal is allowed, the justices whose decision has been reversed are to be indemnified by the treasurer of the county or place, for which such justices acted, from the costs and charges which they have incurred.

Where there is no surplus of the borough fund, a municipal corporation is not entitled to pay out of such fund, costs incurred by the chief constable in opposing, by direction of the council, appeals against refusals to renew licenses, (*Attorney-General v. Mayor &c. of Tynemouth*, (1898), 1 Q.B. 604); and *query*, whether, if there be a surplus, it can be legally applied to the payment of such costs, *ibid.*

The court of quarter sessions has no power to make an order for costs against a successful objector at licensing sessions, who does not appear on the appeal to quarter sessions, reversing the decision of the licensing justices, (*Boulter v. Kent J.J.*, *ubi supra*; *see also R. v. Staffordshire J.J.*, *Times*, May 26, 1898). The effect of the decision in *Boulter v. Kent J.J.*, *ubi supra*, is to overrule *R. v. London J.J.*, (1895), 1 Q.B. 616; *see* the judgment of Wills, J., in *R. v. Staffordshire J.J.*, *ubi supra*.

S. 29. Costs awarded under this section must be paid to the clerk of the peace and be handed over by him to the party entitled to receive them, (12 & 13 Vict. c. 45, s. 5; 11 & 12 Vict. c. 43, s. 27; *Gay v. Matthews*, 4 B. & S. 440; 33 L.J.M.C. 14; 8 L.T. 674; 14 W.R. 922; 27 J.P. 247; *R. v. Devonport JJ.*, 33 J.P. 614; *R. v. Binney*, 22 L.J.M.C. 127; 1 E. & B. 810; and see *R. v. Ely JJ.*, 5 E. & B. 484; 25 L.J.M.C. 1). See also *Winn v. Mossman*, L.R. 4 Ex. 292; 38 L.J. Ex. 200; 33 J.P. 743; 20 L.T. 672; *Mayor &c. of Reigate v. Hart*, L.R. 3 Q.B. 244; 9 B. & S. 129; 37 L.J.M.C. 70; 16 W.R. 896; 18 L.T. (N.S.) 237, as to payment of costs in boroughs having no court of quarter sessions.

As to taxation of costs, see *R. v. Long*, 1 Q.B. 740; *R. v. Hants JJ.*, 33 L.J.M.C. 104; 7 L.T. 391; 11 W.R. 122; *Midland Railway Co. v. Edmonton Guardians* (1895), A.C. 485; 60 J.P. 68; 64 L.J.Q.B. 183; 72 L.T. 206; 43 W.R. 309; 14 R. 281; *Freeman v. Read*, 9 C.B. (N.S.) 301; *R. v. Mortlock*, 7 Q.B. 459; 14 L.J.M.C. 153; *Ex parte Watkins*, 5 L.T. 605; 10 W.R. 249; *Rawnsley v. Hutchinson*, L.R. 6 Q.B. 305; 35 J.P. 501.

Costs incurred by quarter sessions or the justices out of session of a county, and those incurred by any justice, police officer, or constable in defending legal proceedings are to be paid out of the county fund, (51 & 52 Vict. c. 41, s. 66).

The decision in *Boulter v. Kent JJ.*, *ubi supra*, precludes appeal by special case under 42 & 43 Vict. c. 49, s. 33, nor is the remedy under 20 & 21 Vict. c. 43, available as regards decisions of licensing justices, (see *Garretty v. Potts*, 23 L.T. 410, and *R. v. Bird*, 62 J.P. 309). The court of quarter sessions may, however, at its discretion state a case on a point of law for the consideration of the High Court.

Under 12 & 13 Vict. c. 45, s. 11, notice of appeal to quarter sessions from the decision of licensing justices having been given, a special case may be stated by consent of the parties, on the order of a judge of the High Court.

In addition to the right of appeal from the decision of licensing justices, another remedy exists by *mandamus*. Where an inferior court declines to exercise its jurisdiction, the High Court has power by way of *mandamus* to command such Court to discharge its duty according to law, see the judgment of A. L. Smith, L.J., in *R. v. London JJ.*, (1895) 1 Q.B., at p. 637; 59 J.P. 820; 64 L.J.M.C.

100 ; 72 L.T. 211. As to the cases to which *mandamus* applies, see *R. v. Howard*, 23 Q.B.D. 502 ; 53 J.P. 454 ; 60 L.T. 960 ; 37 W.R. 617 ; *R. v. Farquhar*, L.R. 9 Q.B. 258 ; 32 J.P. 166 ; *R. v. Bowman*, (1898), 1 Q.B. 663 ; 14 T.L.R. 303.

In applications for a *mandamus* the High Court has jurisdiction to give costs to the person objecting before the licensing justices, and the discretion as to costs exercised by the Court in such cases is not affected by the decision of *Boulter v. Kent JJ.*, *ubi supra* ; *R. v. West Riding JJ.*, (1898), 1 Q.B. 503.

Witnesses were called in opposition to the grant of a new license, and having given evidence on oath, another person appeared to oppose, and declined at the request of the justices to be sworn. The justices refused to hear him, and granted the license. It was held that the justices acted within their jurisdiction in refusing to hear statements not made upon oath, and a *mandamus* was refused, (*R. v. Sharman and others, ex parte Denton*) (1898), 1 Q.B. 578).

The remedy of *certiorari* applies only to a judicial order, (*R. v. Watermen's Company*, (1897), 1 Q.B. 659).

The decision of licensing justices is not an "order," (*Boulter v. Kent JJ.*, *ubi supra*), which can be brought up by the process of *certiorari*, (*R. v. Sharman and others, ubi supra* ; *R. v. Bowman, ubi supra.*) In *R. v. Thornton*, 62 J.P. 68 ; 67 L.J. (Q.B.) 249, the Court of Appeal made absolute a rule for *certiorari* to bring up a decision of licensing justices, but the point that *certiorari* would not lie does not appear to have been taken.

It will be noticed that the above decisions apply only to licensing justices acting as such at the annual meeting, and do not affect the remedy by way of *certiorari*, where the court of quarter sessions has exceeded its jurisdiction.

PART II.

HOURS OF CLOSING.

3. All premises in which intoxicating liquors are sold by retail shall be closed as follows; (that is to say,)
- L.A. 1874,
s. 3.**
- Hours of closing
premises
licensed for sale
of intoxicating
liquors.
- (1.) If situate within the metropolitan district,—
- (a) On Saturday night from midnight until one o'clock in the afternoon on the following Sunday; and
- (b) On Sunday night from eleven o'clock until five o'clock on the following morning; and
- (c) On all other days from half an hour after midnight until five o'clock on the same morning; and
- (2.) If situate beyond the metropolitan district and in the metropolitan police district or in a town or in a populous place as defined by this Act,—
- (a) On Saturday night from eleven o'clock until half an hour after noon on the following Sunday; and
- (b) On Sunday night from ten o'clock until six o'clock on the following morning; and
- (c) On the nights of all other days from eleven o'clock until six o'clock on the following morning; and
- (3.) If situate elsewhere than in the metropolitan district or the metropolitan police district or such town or populous place as aforesaid,—
- (a) On Saturday night from ten o'clock until half an hour after noon on the following Sunday; and

L.A. 1874,
s. 3.

(b) On Sunday night from ten o'clock until six o'clock on the following morning; and

(c) On the nights of all other days from ten o'clock until six o'clock on the following morning.

Such premises wherever situate shall, save as herein-after mentioned, be closed on Sunday afternoon from three or half-past two according as the hour of opening shall be one o'clock in the afternoon or half an hour after noon until six o'clock.

Such premises wherever situate shall be closed on Christmas Day and Good Friday and on the days preceding Christmas Day and Good Friday respectively, as if Christmas Day and Good Friday were respectively Sunday, and the preceding days were respectively Saturday, but this provision shall not alter the hours during which such premises shall be closed on Sunday when Christmas Day immediately precedes or succeeds Sunday.

L.A. 1874,
s. 6.

Power to vary
 on Sunday
 afternoon hours
 of closing pre-
 mises for sale of
 intoxicating
 liquors.

6. Notwithstanding anything in this or in any Local Act contained, the licensing justices may, if they think fit, as respects premises in which intoxicating liquors are sold, when situate in any place beyond the metropolitan district, for the purpose of accommodating the hours of closing on Sunday, Good Friday, and Christmas Day to the hours of public worship in such place, by order direct that such premises shall remain closed until one o'clock in the afternoon instead of half an hour after noon, and in that case such premises shall be closed in the afternoon from three until six o'clock, instead of from half-past two until six o'clock.

Any order made by the licensing justices under this section shall not come into operation until the expiration of one month after the date thereof, and shall be advertised in such manner as the licensing justices direct, and shall be in force until the same is revoked;

the expense of any such advertisement may be defrayed in like manner as the expenses of advertising the sittings of such justices are defrayed.

32. In this Act, if not inconsistent with the con- **L.A. 1874,**
text, the following expressions have the meanings **s. 32.**
herein-after respectively assigned to them; that is to Definitions.
say,

“The metropolitan district” means the area in that “The metro-
politan dis-
trict.”
behalf mentioned in the schedule hereto.

“Town” means an urban sanitary district as “Town.”
described for the purposes of the Public Health Act, 1872; and any collection of houses adjacent to a town as so defined shall, for the purpose of the provisions of this Act with respect to the closing of premises, be deemed to be part of such town after it has been declared so to be by an order of the county licensing committee having jurisdiction in the place where such houses are situated: Provided that no urban sanitary district, whether including such adjacent houses or not, shall be deemed a town, unless it contains one thousand inhabitants.

“Populous place” means any area with a popula- “Populous
place.”
tion of not less than one thousand, which by reason of the density of such population the county licensing committee may by order determine to be a populous place.

At a meeting especially convened for that purpose in manner provided by any regulations in that behalf, or in default of such regulations by the clerk of the peace, as soon as may be after the passing of this Act, and not later than the first day of September one thousand eight hundred and seventy-four, the county licensing committee shall consider all the cases within their jurisdiction with respect to which it is incumbent upon them to make orders in pursuance of this section,

L.A. 1874, and they shall make orders accordingly, and shall
s. 32. specify therein the boundaries of such towns or populous places.

The county licensing committee may adjourn any meeting held in pursuance of this section, and may also at any subsequent meeting especially convened for that purpose make with respect to any town or populous place within their jurisdiction any like order not restrictive of any order previously made.

Provided that as soon as may be after the publication of each census the county licensing committee shall, at a meeting to be specially convened for the purpose, revise the orders then in force within their jurisdiction, constituting areas either parts of towns or populous places, and may alter or cancel any of the said orders or may make such further orders, if any, as they shall deem necessary to give effect to the provisions of this Act.

5 & 6 Vict.
c. 44, s. 5.

No wines, &c.,
 to be sold on
 board any boats
 or vessels
 moored or lying
 at anchor
 during the
 time when pro-
 hibited to be
 sold in public
 houses.

5. And be it enacted, That no wines, spirits, or other exciseable liquors shall be sold by retail on board of any boat, steam boat, or other vessel which shall be moored or lying at anchor within the metropolitan police district, during the hours and times on Sundays, Good Friday, and Christmas Day on which licensed victuallers are by law obliged to keep their houses closed; and any master, steward, mistress or stewardess, or any other person on board any such boat, steam boat, or other vessel, who shall during those hours on Sundays, Good Friday, and Christmas Day, in which the houses of licensed victuallers shall be closed, sell any wines, spirits, or other exciseable liquors, in and on board such boat, steam boat, or other vessel, within the said district, shall be liable to a penalty not exceeding five pounds, which may be recovered before any magistrate of the metropolitan police courts, or if the

offence shall be committed beyond the limits of any metropolitan police court established or to be established, before any two justices of the peace having jurisdiction therein, or shall, in the discretion of the magistrate or justices of the peace before whom the conviction shall take place, be imprisoned for any time not longer than one calendar month in any gaol or house of correction within his jurisdiction; and in every case of the adjudication of such pecuniary penalty and non-payment thereof, it shall be lawful for such magistrate or justices of the peace to commit the offender to such gaol or house of correction for a term not exceeding one calendar month, the imprisonment to cease on payment of the sum due; and such penalty shall be paid to the receiver of the metropolitan police, and be applied by him towards the expenses of the police courts established within the said district.

5 & 6 Vict.
c. 44, s. 5.

9. Any person who—

During the time at which premises for the sale of intoxicating liquors are directed to be closed by or in pursuance of this Act, sells or exposes for sale in such premises any intoxicating liquor, or opens or keeps open such premises for the sale of intoxicating liquors, or allows any intoxicating liquors, although purchased before the hours of closing, to be consumed in such premises—

L.A. 1874,
s. 9.

Penalty for
infringing Act
as to hours of
closing.

Shall for the first offence be liable to a penalty not exceeding ten pounds and for any subsequent offence to a penalty not exceeding twenty pounds.

30. No person keeping a house licensed under this or the principal Act shall be liable to any penalty for supplying intoxicating liquors, after the hours of closing, to private friends *bonâ fide* entertained by him at his own expense.

L.A. 1874,
s. 30.

Person not to
be liable for
supplying
liquor to
private friends
without charge.

S. 3. This section applies to premises licensed under a justice's license or certificate and an excise retail license, (*Martin v. Barker*, 50 L.J.M.C. 109; 45 L.T. 214; 29 W.R. 789; 45 J.P. 749; and to theatres, in spite of the exemption in Licensing Act, 1872, s. 72, (*Gallagher v. Rudd*, (1898), 1 Q.B. 114; 61 J.P. 789; 67 L.J.Q.B. 65; 46 W.R. 108).

Where a person licensed to retail intoxicating liquors to be consumed off the premises carries on a different business in a distinct part of the premises, only that part of the premises where liquor is sold need be closed during prohibited hours, (*Brigden v. Heighes*, 1 Q.B.D. 330; 40 J.P. 661; 45 L.J.M.C. 58; 34 L.T. 242; 24 W.R. 272); and where intoxicating liquors were locked in a case in a grocer's shop which remained open after the time for closing, but only for the purpose of the grocery business, it was held that the licensee was not liable to be convicted, (*Tassell v. Ovenden*, 2 Q.B.D. 383; 41 J.P. 710; 46 L.J.M.C. 228; 36 L.T. 696; 25 W.R. 692).

No local custom can affect the law as to closing hours, (*Stacey v. Milne*, 39 J.P. 103).

The word "Sunday" in the Sunday Closing (Wales) Act, 1881, (44 & 45 Vict. c. 61), s. 1, has its ordinary meaning, and a person cannot be convicted under the Act for keeping open premises for the sale of liquor on Christmas Day, (*Forsdike v. Colquhoun*, 11 Q.B.D. 71; 49 L.T. 136; 47 J.P. 393).

Time in Great Britain means Greenwich time, (43 & 44 Viet. c. 9, s. 1).

S. 32. "Town." The Public Health Act, 1872, is repealed by the Public Health Act, 1875, (38 & 39 Vict. c. 55), but the definition of "town" in the later Act does not materially differ from that in the former.

S. 5. The sale of intoxicating liquor in packet-boats is not affected by Licensing Act, 1872, (*see* s. 72 (5)). As to excise licenses for the sale of liquor on passenger ships during the voyage, *see* 9 Geo. IV, c. 47, p. 202.

S. 9. Three offences are contained in this section, (1) selling or exposing for sale intoxicating liquor, (2) opening or keeping open the premises, (3) allowing intoxicating liquor, although purchased before the hours of closing, to be consumed on the premises during prohibited hours. It sometimes happens that evidence, though insufficient to establish a charge of keeping open the premises, will nevertheless be sufficient to maintain a conviction for selling

during prohibited hours, (*Tennant* or *R. v. Cumberland*, 1 E. & E. 401; 23 J.P. 51; 7 W.R. 161; *Jefferson* v. *Richardson*, 35 J.P. 470). See as to evidence of sale, Licensing Act, 1872, s. 62, p. 118.

See as to the distinction between selling liquor and keeping open the premises:—*Tennant* v. *Cumberland*, *ubi supra*; *Jefferson* v. *Richardson*, *ubi supra*; *Cates* v. *South*, 23 J.P. 739, 823; 1 L.T. 365; *Pearse* v. *Gill*, 41 J.P. 742; *Thompson* v. *Greig*, 34 J.P. 214; *Brewer* v. *Shepherd*, 36 J.P. 373; *Finch* v. *Blundell*, 26 J.P. 71; 5 L.T. 672; *Smith* v. *Vaux*, 26 J.P. 134; 6 L.T. 46.

S. 30. A licensed person was held in the following case to be unable to convert certain persons, who up to the time of closing had been customers, into private friends, so as to exempt them from the provisions of Licensing Act, 1872, s. 25, *infra*, (*Corbet* v. *Haigh*, 5 C.P.D. 50; 44 J.P. 39; 42 L.T. 185; 28 W.R. 430).

PERSON FOUND ON PREMISES DURING CLOSING HOURS.

25. If, during any period during which any premises are required under the provisions of this Act to be closed, any person is found on such premises, he shall, unless he satisfies the court that he was an inmate, servant, or a lodger on such premises, or a *bonâ fide* traveller, or that otherwise his presence on such premises was not in contravention of the provisions of this Act with respect to the closing of licensed premises, be liable to a penalty not exceeding forty shillings.

**L.A. 1872,
s. 25.**

Penalty on person found on premises during closing hours.

Any constable may demand the name and address of any person found on any premises during the period during which they are required by the provisions of this Act to be closed, and if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or such evidence,

L.A. 1872, s. 25. apprehend him without warrant, and carry him, as soon as practicable, before a justice of the peace.

Any person required by a constable under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false evidence with respect to such name and address, shall be liable to a penalty not exceeding five pounds.

Every person who by falsely representing himself to be a traveller or a lodger buys or obtains or attempts to buy or obtain at any premises any intoxicating liquor during the period during which such premises are closed in pursuance of this Act shall be liable to a penalty not exceeding five pounds.

S. 25. Under this section the fact of a person being found on licensed premises during prohibited hours creates a presumption that he is unlawfully upon such premises. This presumption may be rebutted by the person so found satisfying the court that he was (1) an inmate, servant, or lodger on such premises, (2) that he was a *bonâ fide* traveller, (3) that his presence there was not an infringement of the provisions of the Licensing Acts with respect to the time of closing licensed premises. The provisions with regard to the closing of licensed premises were formerly embodied in s. 24, Licensing Act, 1872. That section was repealed by s. 33, Licensing Act, 1874, and the period for closing premises is now prescribed by s. 3 of the Act of 1874 (*see* p. 79).

See Licensing Act, 1874, s. 10, p. 92, as to lodgers and *bonâ fide* travellers.

In order to understand the meaning of the words "in contravention of the provisions of this Act with respect to the closing of licensed premises," reference must be made to s. 3, Licensing Act, 1874, which fixes the time for closing licensed premises. The acts which s. 3 aims to prevent during prohibited hours are (1) selling or exposing liquor for sale, (2) opening or keeping open premises for the sale of liquor, or (3) allowing liquor although purchased before to be consumed in the premises after the hours of closing (s. 9, Licensing Act, 1874). It appears, therefore, that a person in the capacity of an ordinary customer who contributes to the commission of the above offences is liable to the penalty named in s. 25.

By s. 30, Licensing Act, 1874, a licensed person is exempted from any penalty for supplying with liquor private friends *bonâ fide* entertained by him at his own expense (*see* p. 83), and there is nothing in s. 25, *supra*, which will render a person liable to penalties who happens to be upon licensed premises for a *bonâ fide* purpose. A licensed person cannot, however, on the arrival of the closing hour, convert into private guests persons who have before that hour been entertained on the licensed premises by another person, (*Corbet v. Haigh*, 5 C.P.D. 50 ; 42 L.T. 185 ; 44 J.P. 39 ; 28 W.R. 430) ; nor will the fact of persons being lawfully on licensed premises during closing hours as private friends justify the landlord in allowing gaming by such persons, (*Hare v. Osborne*, 34 L.T. 294 ; *Osborne v. Hare*, 40 J.P. 759 ; *Cooper v. Osborne*, 40 J.P. 759 ; 35 L.T. 347) or billiards, (*Ovenden v. Raymond*, 40 J.P. 727).

L.A. 1872,
s. 25.

Persons arriving at or departing from stations by rail-road are exempted from the provisions of the Acts as to hours of closing in respect of the sale of liquor, (s. 10, Licensing Act, 1874, p. 92). A person who was seen to go into licensed premises and come out within a short space of time with a bottle of gin, was held to be within the meaning of the words "found on the premises," (*Thomas v. Powell*, 57 J.P. 329).

A penalty is imposed on persons found on premises where liquor is unlawfully kept for sale by s. 17, Licensing Act, 1874, p. 144.

HOURS OF CLOSING NIGHT HOUSES.

11. Whereas by the Act of the session of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter sixty-four, it is provided that no persons within the limits of that Act shall open or keep open any refreshment house, to which that Act so far as it is unrepealed applies, or sell or expose for sale or consumption in any such refreshment house any refreshments or any article whatsoever between the hours of one and four o'clock in the morning : And whereas it is expedient to amend the provisions of the said Act : Be it therefore enacted, that the said Act, so far as it is unrepealed, shall be construed as if there

L.A. 1874,
s. 11.

**L.A. 1874,
s. 11.**

were substituted therein for the hour of one o'clock in the morning the hour of the night or morning at which premises licensed for the sale of intoxicating liquors by retail situate in the same place as such refreshment house are required to be closed, and as if the whole of England were within the limits of the Act.

The Public House Closing Act (27 & 28 Vict., c. 64) mentioned in this section was repealed, in so far as it related to refreshment houses in which intoxicating liquors were not sold, by Schedule II., Licensing Act, 1872, and whereas formerly its provisions were confined to the metropolis and certain boroughs only, it has been extended by s. 11, *supra*, to the whole of England.

S. 11 applies to refreshment houses in Wales, and such houses are not affected by s. 1 of the Sunday Closing Wales Act, 1881, (*Berni v. Thorney*, 64 L.J.M.C. 271; 72 L.T. 630; 43 W.R. 411).

HOURS OF CLOSING REFRESHMENT HOUSES NOT LICENSED FOR THE SALE OF INTOXICATING LIQUORS.

**L.A. 1872,
s. 27.**

Intoxicating
liquors not to
be drunk at
refreshment
house during
the hours when
the house
would be
closed if it were
an inn.

27. No intoxicating liquor shall be consumed upon premises licensed as a refreshment house but not for the sale of any intoxicating liquor during the hours during which the same premises would, if they were the licensed premises of licensed victuallers, be closed by law for the sale and consumption of intoxicating liquor. If any person licensed to keep such refreshment house allows any intoxicating liquor to be consumed on the premises in contravention of this section, he shall be liable for the first offence to a penalty not exceeding ten pounds, and for any subsequent offence to a penalty not exceeding twenty pounds.

The Acts relating to refreshment houses not licensed for the sale of intoxicating liquor, mentioned in this section, are 23 Vict. c. 27; 24 & 25 Vict. c. 91; 27 & 28 Vict. c. 64; 28 & 29 Vict. c. 77.

As to the hours of closing licensed premises, *see* Licensing Act, 1874, s. 3, p. 79.

HOURS OF CLOSING REFRESHMENT HOUSES LICENSED
FOR THE SALE OF WINE.

28. Every refreshment house in respect of which a license is granted for the sale therein by retail of foreign wine, upon which license an abatement of duty has been allowed under section nine of the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-one, section nine, intituled "An Act to amend the Laws relating to the Inland Revenue," shall be closed every night at ten of the clock, and if any person keeping any such refreshment house as is mentioned in this section sells or exposes for sale in such refreshment house, or opens or keeps open any such refreshment house for the sale of intoxicating liquors during the time that such house is directed to be closed by this section, or during such time as aforesaid allows any intoxicating liquor to be consumed on such premises, he shall for the first offence be liable to a penalty not exceeding ten pounds, and for any subsequent offence to a penalty not exceeding twenty pounds.

**L.A. 1872,
s. 28.**Amendment
of law as to
refreshment
houses.

This section amends the proviso at the end of s. 9, 24 & 25 Vict. c. 91, and applies only to the sale by retail of foreign wine in refreshment houses licensed under that section. *See also* 23 & 24 Vict. c. 27, ss. 9, 19, and 39 & 40 Vict. c. 16, s. 4.

EXEMPTION FROM CLOSING HOURS.

26. The local authority of any licensing district, upon the production of such evidence as such authority may deem sufficient to show that it is necessary or desirable so to do for the accommodation of any considerable number of persons attending any public market, or following any lawful trade or calling, or attending any theatre, may grant, if such authority

**L.A. 1872,
s. 26.**Exemption
from closing
by order of
local authority
in respect of
certain trades.

L.A. 1872, think fit, to any licensed victualler or licensed keeper
s. 26. of a refreshment house, in respect of premises in the immediate neighbourhood of such market, or of the place where the persons follow such lawful trade or calling, or of any such theatre, an order exempting such person from the provisions of this Act with respect to the closing of his premises on such days and during such time, except between the hours of one and two of the clock in the morning, as may be specified in such order.

The holder of an order under this section shall not be liable to any penalty for not closing his premises on such days and during such time as may be specified in such order; but he shall not be exempt from any other penalty under this or any other Act, or otherwise.

A notice in such form as may be prescribed by the local authority, stating the days and hours during which the premises are permitted to be open under such order of exemption shall be affixed and kept affixed in a conspicuous position outside the premises; and if the holder of the order of exemption make default in affixing or in keeping affixed such notice in manner aforesaid, during any part of the time for which his exemption is granted, he shall be liable to pay a penalty not exceeding five pounds.

Every person who keeps affixed to his premises any such notice when he does not hold an order under this section, shall be liable to a penalty not exceeding ten pounds.

Any such local authority as aforesaid may at any time, if it seem fit to them, withdraw an order under this section, or alter the same by way of extension or restriction, as such authority may deem necessary or expedient, so however as not to render any person liable to any penalty for anything done under such order before the holder was informed of such withdrawal or alteration.

The following persons and bodies of persons shall be deemed to be local authorities of licensing districts for the purposes of this Act ; that is to say, L.A. 1872,
s. 26.

- (1.) In the metropolitan police district, the commissioner of police for the metropolis, subject to the approbation of one of Her Majesty's Principal Secretaries of State :
- (2.) In the city of London and the liberties thereof, so far as they are not included in the metropolitan police district, the commissioner of city police, subject to the approbation of the Lord Mayor of the said city :
- (3.) In any other place, two justices of the peace in petty session assembled.

4. An exemption from the above-mentioned hours of closing shall not be granted in respect of premises in the neighbourhood of a theatre, for the accommodation of persons attending the same. L.A. 1874,
s. 4.

Exemptions as to theatres repealed.

5. The grant of an order of exemption under the said twenty-sixth section amended as aforesaid may be made to any person licensed to sell beer or cider by retail, to be consumed on the premises, as well as to any licensed victualler or licensed keeper of a refreshment house. L.A. 1874,
s. 5.

Exemptions as to beer-houses.

See s. 64, Licensing Act, 1872, p. 60, as to production of order of exemption.

The grant of the order of exemption is in the discretion of the local authority.

For the hours of closing, *see* Licensing Act, 1874, s. 3, p. 79.

The above sections apply to alehouses licensed under 9 Geo. IV, c. 61 ; refreshment houses under 23 Vict. c. 27 ; and houses licensed under the Wine and Beerhouse Acts, 1869 and 1870, for the sale of beer and cider for consumption on the premises.

As to occasional licenses, *see* s. 29, Licensing Act, 1872, p. 30, and for excise occasional licenses, p. 197.

BONÂ FIDE TRAVELLERS AND LODGERS.

L.A. 1874,
s. 10.

Saving as to
bonâ fide
travellers and
lodgers.

10. Nothing in this Act or in the principal Act contained shall preclude a person licensed to sell any intoxicating liquor to be consumed on the premises from selling such liquor at any time to *bonâ fide* travellers or to persons lodging in his house: Provided, that no person holding a six-day license shall sell any intoxicating liquor on Sunday to any person whatever not lodging in his house.

Nothing in this Act contained as to hours of closing shall preclude the sale at any time, at a railway station, of intoxicating liquors to persons arriving at or departing from such station by railroad.

If in the course of any proceedings which may be taken against any licensed person for infringing the provisions of this Act or the principal Act, relating to closing, such person (in this section referred to as the defendant) fails to prove that the person to whom the intoxicating liquor was sold (in this section referred to as the purchaser) is a *bonâ fide* traveller, but the justices are satisfied that the defendant truly believed that the purchaser was a *bonâ fide* traveller, and further that the defendant took all reasonable precaution to ascertain whether or not the purchaser was such a traveller, the justices shall dismiss the case as against the defendant, and if they think that the purchaser falsely represented himself to be a *bonâ fide* traveller, it shall be lawful for the justices to direct proceedings to be instituted against such purchaser under the twenty-fifth section of the principal Act.

A person for the purposes of this Act and the principal Act shall not be deemed to be a *bonâ fide* traveller unless the place where he lodged during the preceding night is at least three miles distant from the

place where he demands to be supplied with liquor, such distance to be calculated by the nearest public thoroughfare. L.A. 1874,
s. 10.

The provision as to *bond fide* travellers does not authorise the sale of liquor for consumption off the premises during prohibited hours, (*Mountifield v. Ward*, (1897) 1 Q.B. 326).

The onus of proving knowledge on his part that persons served by a licensed person are not travellers lies on the informer, (*Copley v. Burton*, L.R. 5 C.P. 489; 39 L.J.M.C. 141; 22 L.T. 888, which was decided under 11 & 12 Vict. c. 49, s. 1).

Upon an information under s. 24 (now repealed) of Licensing Act, 1872, it was held that the onus of showing that persons came within the exception in s. 51, sub-s. 4, *ibid*, (also repealed), lay on the defendant, (*Roberts v. Humphreys*, L.R. 8 Q.B. 483; 38 J.P. 135; 42 L.J.M.C. 147; 29 L.T. 387; 21 W.R. 885; and see *Gallimore v. Goodall*, 38 J.P. 597).

By s. 10 of the Public House Closing Act, 1864, (27 and 28 Vict. c. 64), that Act is made inapplicable to sales at railway stations between the hours of one and four o'clock in the morning. The Act was amended by s. 11, Licensing Act, 1874, (see p. 87), and the hour of the night or morning at which premises in the district are directed to be closed by Licensing Act, 1874, s. 3, is substituted for the hour of one o'clock.

It was held under 11 & 12 Vict. c. 49, s. 1, that a person who had walked two miles and a half from his residence and was supplied with ale was a traveller, and that the licensed person could not be convicted for serving him, (*Peplow v. Richardson*, L.R. 4 C.P. 168; 33 J.P. 407; 17 W.R. 410; see *Peaché v. Colman*, L.R. 1 C.P. 324; 35 L.J.M.C. 118; 14 W.R. 439).

A man may be a *bond fide* traveller whether he travels for business or for pleasure, (*Atkinson v. Sellers*, 5 C.B. (N.S.) 442; 23 J.P. 71; 28 L.J.M.C. 12; *Taylor v. Humphreys*, 10 C.B. (N.S.) 429; 30 L.J.M.C. 242; 9 W.R. 705; 4 L.T. 514; *Taylor v. Humphries*, 17 C.B. (N.S.) 539; 28 J.P. 793; 34 L.J.M.C. 1; 11 L.T. 376; 13 W.R. 136).

If a person is a traveller he will not lose his status by visiting more than one public-house in the same place, (*Oldham v. Sheasby*, 55 J.P. 214; 60 L.J.M.C. 81). Where

L.A. 1874,
s. 10. a person travelled several miles for the purpose of singing at a concert held on licensed premises, it was held that he did not cease to be a traveller by reason of his having remained on the premises for several hours for the aforesaid purpose, (*Dames v. Bond*, 55 J.P. 503). Where a porter went to work at a station more than three miles from the place where he had slept the preceding night, and visited a public-house which was also beyond the limit, but less than a mile from the station where he had been at work, he was held to be a *bonâ fide* traveller, (*Cowap v. Atherton*, (1893) 1 Q.B. 49; 57 J.P. 8; 68 L.T. 88; 41 W.R. 158).

131 persons, all except four or five of whom had walked a distance of more than three miles from Northampton, and the rest a distance of five miles to licensed premises, on Sunday, were served with liquor in a yard set apart for them. Extra waiters were employed on Sundays, and the accommodation in the yard was not furnished on week-days. Each person was asked where he came from and where he had slept the preceding night, and no more than one pint of beer was supplied to each person. The customers, after having been served, proceeded no further, but returned to Northampton. It was held by Lord Coleridge C.J., Hawkins, Day and Collins JJ. (Cave J. dissenting), that there was sufficient evidence to warrant the finding of the justices that the customers were not *bonâ fide* travellers, and that the licensed person did not believe them to be such and was rightly convicted, (*Penn v. Alexander*, (1893) 1 Q.B. 522; 57 J.P. 118; 68 L.T. 355; 62 L.J.M.C. 65; 41 W.R. 392).

It will be observed that the provision with respect to the three-mile limit is negative in form, "it does not say who is to be, but who is not to be, a *bonâ fide* traveller," (*per* Coleridge C.J., *ibid*, p. 531). If a person has fulfilled the condition as to distance, he has advanced one step in the direction of becoming a *bonâ fide* traveller, if he has not fulfilled this condition he is unable to become one. "In all these cases the test must be the object of the journey. If that object is pleasure or business, a man will be a *bonâ fide* traveller; but if the form of pleasure be to drink beer, he will not be, for the beer—and not the travelling—would be the object of his journey," (*per* Collins, J., *ibid*, p. 527; see also *Taylor v. Humphries*, *ubi supra*).

The length of time passed by persons in licensed premises is an element for the justices to consider on the question of *bona fides*, (*Gallimore v. Goodall*, 38 J.P. 597).

Where a publican opened his premises with the *bonâ fide* intention of supplying travellers only, but nevertheless supplied persons who were not travellers, the Court held that he might be fairly taken to have kept the house open for both sets of persons. And it was further held that *bonâ fide* belief was a question of fact, and that the justices might reasonably infer that the publican had no such belief and therefore the Court declined to interfere, (*Watt v. Glenister*, 40 J.P. 181; 32 L.T. 856). The mere fact of persons, not being *bonâ fide* travellers, having been supplied with liquor among others who were *bonâ fide* travellers, was held not to be sufficient to justify a conviction under 11 & 12 Vict. c. 49, s. 1; but in that case the magistrates had pronounced no opinion as to whether or not the landlord knew that liquor was supplied to persons who were not travellers, (*Peaché v. Colman*, L.R. 1 C.P. 324, *supra*).

L.A. 1874,
s. 10.

The "nearest public thoroughfare" is not confined to land, but includes a navigable arm of the sea, capable of being crossed by means of a ferry-boat, (*Coulbert v. Troke*, 1 Q.B.D. 1; 40 J.P. 533; 45 L.J.M.C. 7; 33 L.T. 340; 24 W.R. 41; and *see Parker v. R.*, (1896), 2 Ir. R. 404).

The master will not be liable if a servant, contrary to instructions, neglects to inquire if the customer is a traveller, (*Copley v. Burton*, L.R. 5 C.P. 489, *supra*); but if the servant is in charge of the premises the master would probably be liable for any act of the servant, (*Bond v. Evans*, 21 Q.B.D. 249; 52 J.P. 613; 57 L.J.M.C. 105; 59 L.T. 411; 36 W.R. 767, decided under s. 17, Licensing Act, 1872; *see ss. 16 & 17 of that Act*, and notes, p. 126; and *see Commissioner of Police of Metropolis v. Cartman*, (1896), 1 Q.B. 655; 12 T.L.R. 334).

S. 10 does not extend to exempt lodgers playing billiards after closing hours for the sale of liquor, (*Ovenden v. Raymond*, 34 L.T. 698; 40 J.P. 727; *see 8 & 9 Vict. c. 109, s. 2*); and the same applies to gaming, (*Cooper v. Osborne*, 34 L.T. 294; 40 J.P. 759).

Private friends entertained by a publican after closing hours and playing cards with him for money cannot be convicted of being unlawfully in the house aiding in gaming: *Ibid.*

Where a licensed person supplies liquor after closing hours to a *bonâ fide* lodger and his guests, entertained and paid for by the lodger, he cannot be convicted under s. 9, Licensing Act, 1874, owing to the provision as to lodgers in s. 10, *supra*, (*Pine v. Barnes*, 20 Q.B.D. 221; 52 J.P. 199;

L.A. 1874, 57 L.J.M.C. 28; 58 L.T. 520; 36 W.R. 473; *see* the
s. 10. Scotch case *Oliver v. London*, 60 J.P. 249). *See* s. 25,
 Licensing Act, 1872, p. 86, as to persons falsely representing
 themselves to be travellers or lodgers.

OFFENCES IN RESPECT OF THE SALE OF INTOXICATING LIQUOR.

SELLING WITHOUT LICENSE.

L.A. 1872,
s. 3.

Prohibition of
 sale of intoxica-
 ting liquors
 without license.

3. No person shall sell or expose for sale by retail any intoxicating liquor without being duly licensed to sell the same, or at any place where he is not authorised by his license to sell the same. Any person selling or exposing for sale by retail any intoxicating liquor which he is not licensed to sell by retail, or selling or exposing for sale any intoxicating liquor at any place where he is not authorised by his license to sell the same, shall be subject to the following penalties; that is to say,

- (1.) For the first offence he shall be liable to a penalty not exceeding fifty pounds, or to imprisonment with or without hard labour for a term not exceeding one month:
- (2.) For the second offence he shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding three months, and he may, by order of the court by which he is tried, be disqualified for any term not exceeding five years from holding any license for the sale of intoxicating liquors:
- (3.) For the third and any subsequent offence he shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for any term not exceeding

six months, and may, by order of the court by which he is tried, be disqualified for any term of years or for ever from holding any license for the sale of intoxicating liquors : **L.A. 1872, s. 3.**

In addition to any other penalty imposed by this section any person convicted of a second or any subsequent offence under this section shall, if he be the holder of a license, forfeit such license, and in the case of a conviction for any offence under this section, the court may, if it thinks expedient so to do, declare all intoxicating liquor found in the possession of any such person as last aforesaid, and the vessels containing such liquor, to be forfeited.

No penalty shall be incurred under this section by the heirs, executors, administrators, or assigns of any licensed person who dies before the expiration of his license, or by the trustee of any licensed person who is adjudged a bankrupt or whose affairs are liquidated by arrangement before the expiration of his license in respect of the sale or exposure for sale of any intoxicating liquor, so that such sale or exposure for sale be made on the premises specified in such license, and take place prior to the special session then next ensuing, or (if such special session be holden within fourteen days next after the death of the said person or the appointment of a trustee in the case of his bankruptcy, or the liquidation of his affairs by arrangement) take place prior to the special session holden next after such special session as last aforesaid.

4. The occupier of any unlicensed premises on which any intoxicating liquor is sold, or if such premises are occupied by more than one person, every occupier thereof, shall, if it be proved that he was privy or consenting to the sale, be subject to the penalties imposed upon persons for the sale of intoxicating liquors without license. **L.A. 1872, s. 4.**

Occupier of unlicensed premises liable for sale of liquor.

S. 3. Sale by retail (*see* p. 52) is defined in the case of beer, cider or perry as a sale in any less quantity than four gallons and a half, (4 & 5 Will. IV, c. 85, s. 19). "Beer" includes beer, ale and porter, (11 Geo. IV, and 1 Will. IV, c. 64, s. 32).

In the case of foreign wines, sale by retail means a selling in any less quantity than two gallons, or in less than one dozen reputed quart bottles at one time, (23 and 24 Viet. c. 27, s. 4); and in the case of sweets, a sale of less than a cask of fifteen gallons, (4 & 5 Will. IV, c. 77, s. 11, which is repealed by 52 & 53 Viet. c. 42). The section is incorporated by s. 74, Licensing Act, 1872, and the definition is therefore unaffected by the repeal.

The sale of spirits in any quantity less than two gallons, or less than one dozen reputed quart bottles, is to be deemed sale by retail, (43 & 44 Viet. c. 24, s. 104).

The definition of "sale by retail" in s. 74, Licensing Act, 1872, merely incorporates the various definitions of such a sale in Acts relating to the sale of intoxicating liquors, *see* p. 52.

The test of a sale of beer by retail is the quantity sold at one time. It is, therefore, permissible for a holder of an excise license under 6 Geo. IV, c. 81, s. 2, to sell beer in pint and half-pint bottles, so long as the quantity sold at one time does not exceed the quantity contained in a cask of four and a half gallons or two dozen reputed quart bottles, (*Fairclough v. Roberts*, 24 Q.B.D. 350; 54 J.P. 421; 59 L.J.M.C. 54; 62 L.T. 700; 38 W.R. 330).

Wholesale dealers are expressly exempted from the provisions of Licensing Act, 1872, by s. 72, (*R. v. Jenkins*, 55 J.P. 824; 61 L.J.M.C. 57; 65 L.T. 857; 40 W.R. 318).

Intoxicating liquor is defined by s. 74, Licensing Act, 1872, p. 49.

As to what evidence of sale or consumption of liquor is necessary in proceedings under the Acts of 1872 and 1874, *see* s. 62 of the former Act, p. 118.

If a wife sells liquor without a license, the husband, in the absence of knowledge on his part, cannot be convicted, (*Allen v. Lumb*, 57 J.P. 377; and *see Seager v. White*, 48 J.P. 436; 51 L.T. 261).

As regards "the offence of selling at any place where "he is not authorised by his license to sell," where premises are rebuilt, but not substantially altered, a licensed person is not liable to be convicted under s. 3, *supra*, (*Deer v. Bell*, 58 J.P. 513; 64 L.J.M.C. 85).

Under the words above set out, the question whether the actual sale took place at the licensed premises, or at the customer's house, has sometimes to be decided. Where a brewer, having an off-license for the sale of beer by retail, delivered jars of beer in a cart at the customers' houses, in pursuance of orders given by the customers at their houses to the carter in the preceding week, and the price was paid by the customers to the carter in the week succeeding delivery, there being no label or mark on the jars indicating that any particular jar had been appropriated to any particular customer, it was held that the sale must be taken to have been at the house of the customer, and not at the licensed premises, and that the brewer was properly convicted under s. 3, (*Pletts v. Campbell*, (1895) 2 Q.B. 229; 59 J.P. 502; 64 L.J.M.C. 225; 73 L.T. 344; 43 W.R. 634). In *Pletts v. Beattie*, (1896) 1 Q.B. 519; 60 J.P. 185; 65 L.J.M.C. 86; 74 L.T. 148, a brewer, having an off-license for the sale of beer by retail, sent his traveller to customers, who signed post-cards addressed to the brewer, requesting the supply of a quantity of ale weekly; the traveller wrote the quantity required on the post-card, which bore words expressing the assent of the buyer to the goods being appropriated at the brewery. In accordance with such an order, six bottles of ale were selected by the brewer's carter, one of which was labelled with the customer's name and address, and the bottles were then placed in a box with six others for another customer, one of which was also labelled. The goods were delivered at the customer's house, and paid for on delivery. It was held that there had been a complete sale and appropriation of the goods at the brewery, and that the brewer could not be convicted. See also *Saunders v. Thorney*, Times, April 6, 1898.

The sale of liquor prohibited by s. 3 does not apply to a *bonâ fide* club, under the rules of which members pay an entrance fee and subscription, the club property being vested in trustees, (*Graff v. Evans*, 8 Q.B.D. 373; 46 J.P. 262; 51 L.J.M.C. 25; 46 L.T. 347; 30 W.R. 380. See also *Newell v. Hemingway*, 53 J.P. 324; 58 L.J.M.C. 46; 60 L.T. 544). But where a member of a workman's club entered a stranger's name in the visitors' book, and the stranger handed the money to the member, and asked for and was supplied with ale, the member was held to be liable under s. 3, (*Stevens v. Wood*, 54 J.P. 742). So where a wife was sent to a club for beer by her husband, who was a member of the club, the steward was

convicted of selling beer to the wife, (*Woodley v. Simmonds*, 60 J.P. 151; 12 T.L.R. 196).

There is a distinction between clubs in which the drink and liquors are the property of the members themselves, and those where such drinks and liquors belong to a proprietary company, which obtains all the profits arising from their sale. Thus, where a person having paid a subscription was elected an honorary member of a club, pending inquiries, and was then supplied with beer, wine and spirits, for which he paid, it was held that the respondents, a registered company, and the proprietors of the club, who held no license for the sale of intoxicating liquors, might be convicted for selling beer, wine and spirits without a license, (*Bowyer v. Percy Supper Club, Ltd.*, (1893) 2 Q.B. 154; 57 J.P. 470; 42 W.R. 29; 69 L.T. 447. See also *Evans v. Hemingway*, 52 J.P. 134).

Where a person convicted of felony became by transfer the holder of licenses, which were renewed to him, upon the fact of his conviction being discovered an application was made by the next tenant for a transfer of the licenses. This application was refused on the ground that the licenses were void by reason of the conviction of the holder of the previous licenses, under s. 14 of 33 & 34 Vict. c. 29, (*R. v. Vine*, L.R. 10 Q.B. 195; 39 J.P. 213; 44 L.J.M.C. 60; 31 L.T. 842; 23 W.R. 649). But a free pardon puts an end to the disqualification attaching to a person convicted of felony, (*Hay v. Tower JJ.*, 24 Q.B.D. 557; 54 J.P. 500; 59 L.J.M.C. 79; 62 L.T. 290; 38 W.R. 414).

As to forfeiture of license on conviction for permitting premises to be a brothel, see Licensing Act, 1872, s. 15, p. 119.

Where executors renewed a license in the name of a deceased person, it was held to be absolutely void, (*Cowles v. Gale*, L.R. 7 Ch. 12; 25 L.T. 524; 20 W.R. 70; 41 L.J.C. 14).

By s. 13, 9 Geo. IV, c. 61, licenses granted at any other time or place than those directed, are declared to be void, (*R. v. Downes*, 3 T.R. 560; *Pearson v. Broadbent*, 36 J.P. 485).

An agreement, involving the sale of liquor by an unlicensed person is illegal and void, (*Ritchie v. Smith*, 6 C.B. 462; 12 J.P. 822; 18 L.J.C.P. 9; 12 L.T. (O.S.) 148).

An excise license, granted without the preliminary certificate stating that the applicant was the resident holder and occupier required by s. 2, 3 & 4 Vict. c. 61,

was held not to be void ; but if the applicant had not been the resident holder and occupier, the license would have been void, (*Thompson v. Harvey*, 4 H. & N. 254 ; 23 J.P. 150 ; 28 L.J.M.C. 163).

Where it was alleged that the signature of a justice was forged, in the absence of any fraud on the part of the holder, the license was held to be valid, (*R. v. Minshull*, 1 N. & M. 278) ; and where an occasional license was obtained, but the justice who signed the written consent did not usually act for the petty sessional division within which the place of sale was situate, in accordance with the provisions of 25 & 26 Vict. c. 22, s. 13, and 26 & 27 Vict. c. 33, s. 20 (1), it was held that, although there was an irregularity in obtaining the license, yet the licensee was protected against the consequences of selling without a license, (*Stevens v. Emson*, 1 Ex. D. 100 ; 40 J.P. 484 ; 45 L.J.M.C. 63 ; 33 L.T. 821).

As to unlawful hawking and sale of spirits, *see* 43 & 44 Vict. c. 24, s. 146. The sale of spirits for unlawful purposes and the unlawful purchase of spirits are dealt with by ss. 147 and 148 respectively of the same Act.

The justices have no discretion as to the forfeiture of the license on a second or third and subsequent offence. The period of imprisonment imposed by sub-sect. 3 for the third and any subsequent offence, enables the defendant to demand a trial by jury under s. 17, 42 & 43 Vict. c. 49, inasmuch as the term exceeds three months.

By s. 22, 42 & 43 Vict. c. 49, a certified extract from the register of the clerk of the court in which the conviction took place, is sufficient proof of the conviction.

As to the disposal of forfeitures of liquor, *see* s. 51 (5), Licensing Act, 1872, p. 147.

Notice of conviction, which has the effect of forfeiture or disqualification, must be sent by the clerk of the court to the licensing officer of the district, and to the clerk to the licensing justices when the clerk of the court does not hold that office, together with the forfeited license, (s. 55, Licensing Act, 1872, p. 130).

A conviction for an offence under an Act other than the Licensing Acts cannot be treated as a conviction for the purpose of imposing the penalties in sub-sects. (2) and (3) of s. 3, *supra*, for a second or third offence. (*In re Authers*, 22 Q.B.D. 345 ; 53 J.P. 116 ; 58 L.J.M.C. 62 ; 37 W.R. 420), in which case a conviction under s. 17, 4 & 5 Will. IV, c. 85, for selling beer by retail without having

an excise retail license, was held not to render the offender liable to the full penalty of £100 on his subsequent conviction under s. 3, *supra*.

The punishment prescribed by s. 3 is alternative, and therefore a conviction imposing a penalty, and, in default of payment, imprisonment, is bad, (*In re Clew*, 8 Q.B.D. 511; 46 J.P. 534; 51 L.J.M.C. 140; 46 L.T. 482; 30 W.R. 704; see also *re Brown*, 3 Q.B.D. 545; 42 J.P. 598; 47 L.J.M.C. 108; 38 L.T. 682; 26 W.R. 757).

Imprisonment in default of payment of penalties can only be imposed where a distress has been levied and found to be insufficient: *Ibid*. The two cases above mentioned were decided before the repeal of s. 51 (2), Licensing Act, 1872, which was superseded by 11 & 12 Vict. c. 43, ss. 19, 21, and 42 & 43 Vict. c. 49, s. 21. See s. 5, 47 & 48 Vict. c. 43. See also s. 51, Licensing Act, 1872, and notes, p. 149, as to the mode of recovering penalties.

On a case stated by justices, the High Court cannot, under 20 Vict. c. 43, s. 6, reduce the penalty, (*Evans v. Hemingway*, 52 J.P. 134).

The exemption in favour of executors and trustees from the earlier provisions of the section applies to persons licensed under the Alchouse Act, 1828, and those holding certificates under the Wine and Beerhouse Acts, 1869 and 1870; also to the sale of sweets, and the sale of spirits by retail for consumption off the premises, (Licensing Act, 1872, s. 74, definition of "licensed person" and "license").

The fact of the executor being under the age of twenty-one years will not disqualify him from selling liquor until the next special transfer sessions, (*Rose v. Frogley*, 57 J.P. 376; 62 L.J.M.C. 181; 69 L.T. 346; 9 T.L.R. 466).

S. 4. It was held under s. 18, 9. Geo. IV, c. 61, which is superseded by s. 4, *supra*, that an agreement, having for its object the sale of liquor without a license, was illegal, (*Ritchie v. Smith*, 6 C.B. 462; 18 L.J.C.P. 9; 12 L.T. (O.S.) 148; 12 J.P. 822).

DRINKING ON PREMISES CONTRARY TO LICENSE.

**L.A. 1872,
s. 5.**

Seller liable for drinking on premises contrary to license.

5. If any purchaser of any intoxicating liquor from a person who is not licensed to sell the same to be drunk on the premises drink such liquor on the premises where the same is sold, or on any highway adjoining or near such premises, the seller of such liquor shall, if

it shall appear that such drinking was with his privity or consent, be subject to the following penalties ; (that is to say,)

For the first offence he shall be liable to a penalty not exceeding ten pounds :

For the second and any subsequent offence he shall be liable to a penalty not exceeding twenty pounds.

For the purposes of this section the expression “premises where the same is sold” shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor or under his control, or used by his permission.

6. If any person having a license to sell intoxicating liquors not to be drunk on the premises, himself takes or carries, or employs or suffers any other person to take or carry, any intoxicating liquor out of or from the premises of such licensed person for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatever, belonging to such licensed person, or hired, used, or occupied by him, or on or in any place, whether enclosed or not, and whether or not a public thoroughfare, such intoxicating liquor shall be deemed to have been consumed by the purchasers thereof on the premises of such licensed person, with his privity and consent, and such licensed person shall be punished accordingly in manner provided by this Act.

**L.A. 1872,
s. 6.**

Evasion of law
as to drinking
on premises
contrary to
license.

In any proceeding under this section, it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk, belonged to, or were hired, used, or occupied by the seller, if proof be given to the satisfaction of the court hearing the case, that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his license.

**L.A. 1872,
ss. 5, 6.**

S. 5. It is probable that this section was intended only to apply to persons licensed to sell liquor not to be consumed on the premises. It is so worded, however, as to include persons who have no license at all, but such persons are liable to the larger penalties prescribed by s. 3, Licensing Act, 1872, and it is, therefore, unlikely that proceedings would be instituted under s. 5 against any persons other than those having an off-license.

Where the defendant, having an off-license, sold beer which was carried to a neighbour's house fourteen yards away from the licensed premises and drunk partly on the neighbour's premises and partly on the highway, the Court held that the facts did not justify the conclusion that the drinking took place with the "privity or consent" of the defendant, (*Bath v. White*, 3 C.P.D. 175; 42 J.P. 375; 26 W.R. 617).

It is not necessary to prove actual consumption of liquor, if the Court is satisfied that consumption was about to take place, (Licensing Act, 1872, s. 62, p. 118). The justices have absolute discretion as to recording upon licenses convictions under the above sections, (Licensing Act, 1874, s. 13, p. 131).

S. 6. This section applies only to persons licensed to sell intoxicating liquor not to be drunk on the premises. It has no application to sales which take place on the licensed premises, its provisions being confined to cases where liquor is taken from the licensed premises either by the licensed person or some agent on his behalf, for the purpose of being sold for his benefit, and of being consumed on or in those places mentioned in the section. The places so mentioned are—(1) any house other than the licensed premises, any tent, shed, or other building of any kind whatever belonging to such licensed person, or hired, used, or occupied by him; (2) any place whether enclosed or not, and whether or not a public thoroughfare.

It is difficult to understand the necessity for this section, the gist of which is to make it an offence for a person having an off-license for the sale of liquor, to sell such liquor at any place other than that authorised by the license, a state of facts which is made punishable under s. 3, Licensing Act, 1872, without regard to the purpose of the sale, and renders the offender liable to severer penalties than those imposed by s. 6. The penalties for an infringement of this section are those imposed by s. 5, *supra*, the last words of the first paragraph being obviously referable thereto.

SALE BY STANDARD MEASURE.

8. Every person shall sell all intoxicating liquor which is sole by retail and not in cask or bottle, and is not sold in a quantity less than half-a-pint, in measures marked according to the imperial standards.

L.A. 1872,
s. 8.

Sale to be by
standard
measure.

Every person who acts, or suffers any person under his control or in his employment to act in contravention of this section, shall be liable to a penalty not exceeding, for the first offence ten pounds, and not exceeding for any subsequent offence twenty pounds, and shall also be liable to forfeit the illegal measure in which the liquor was sold.

Under this section liquor must be actually sold in a measure marked according to the imperial standards ; it is not sufficient to draw liquor into a measure properly marked and pour it thence into, and sell it in, a jug, (*Addy v. Blake*, 19 Q.B.D. 478 ; 51 J.P. 599 ; 56 L.T. 711 ; 35 W.R. 719).

Although the quantity of liquor demanded does not correspond with any imperial measure, yet if it exceeds half-a-pint and is not supplied in cask or bottle, it must be served in measures marked according to the imperial standards, (*Payne v. Thomas*, 54 J.P. 824 ; 60 L.J.M.C. 3 ; 63 L.T. 456 ; 39 W.R. 240). See the Weights and Measures Act, 41 & 42 Vict. c. 49. See also *R. v. Aulton*, 25 J.P. 69 ; 30 L.J.M.C. 129 ; 3 E. & E. 568 ; and *Washington v. Young*, 19 L.J.Exch. 348 ; 5 Ex. 403.

INTERNAL COMMUNICATION BETWEEN LICENSED
AND UNLICENSED PREMISES.

9. Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty not exceeding ten pounds for every day during which such communication remains open.

L.A. 1872,
s. 9.

Penalty on
internal
communication
between
licensed
premises and
house of
public resort.

In addition to any penalty imposed by this section, any person convicted of an offence under this section shall, if he be the holder of a license, forfeit such license.

**L.A. 1872,
s. 10.**

Penalty on illicit
storing of
liquor.

10. If any licensed person has in his possession on the premises in respect of which his license is granted, any description of intoxicating liquor which he is not authorised to sell, unless he shall account for the possession of the same to the satisfaction of the court by which he is tried, he shall forfeit such liquor and the vessels containing the same, and shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for any subsequent offence twenty pounds.

S. 9. It will be observed that the penalty imposed by this section extends to the occupier of unlicensed premises which are used for the purposes mentioned in the section, as well as to the occupier of licensed premises. *See* the definitions of licensed and unlicensed premises, Licensing Act, 1872, s. 74, p. 321.

As to what is a place of public resort, *see Ex parte Davis*, 2 H. & N. 149; 21 J.P. 280; 26 L.J.M.C. 178; *Sewell v. Taylor*, 7 C.B. (N.S.) 160; 29 L.J.M.C. 50; 1 L.T. 37; *Turnbull v. Appleton*, 45 J.P. 469. As to refreshment houses, *see* 23 Viet. c. 27, s. 6.

On the tenant's conviction for the first time of an offence against the provisions of s. 9, the owner may apply for a continuance of the license under Licensing Act, 1874, s. 15, p. 140.

An enactment similar to the above is to be found in 2 & 3 Vict. c. 47, as regards the Metropolitan Police District; *see* s. 45. *See* also 2 & 3 Vict. c. 94, s. 29.

S. 10. This section applies only to licensed persons having on their premises liquor other than that in respect of which they are licensed.

As to the sale of forfeitures, *see* s. 51 (5), Licensing Act, 1872. Goods which are forfeited on conviction do not appear to be governed by the decision in *Gill v. Bright*, 36 J.P. 198; 41 L.J.M.C. 22; 25 L.T. 391; 20 W.R. 248; in which case it was held that no order should be made for

the sale of goods seized under 33 & 34 Viet. c. 29, s. 15, (now repealed and superseded by Licensing Act, 1874, s. 17, *see* p. 124), without the owner having had an opportunity of showing cause why the sale should not take place.

SALE OF SPIRITS AND LIQUORS TO CHILDREN.

7. Every holder of a license who sells or allows any person to sell, to be consumed on the premises, any description of spirits to any person apparently under the age of sixteen years, shall be liable to a penalty not exceeding twenty shillings for the first offence, and not exceeding forty shillings for the second and any subsequent offence.

L.A. 1872,
s. 7.

Sale of spirits
to children.

1. Every holder of a license who knowingly sells or allows any person to sell, any description of intoxicating liquors to any person under the age of thirteen years for consumption on the premises by any person under such age as aforesaid, shall be liable to a penalty not exceeding twenty shillings for the first offence, and not exceeding forty shillings for the second and any subsequent offence.

49 & 50
Vict. c. 56,
s. 1.

Sale of liquors
to children to
be illegal.

2. For the purposes of all legal proceedings required to be taken under the foregoing section, this Act shall be construed as one Act with the Licensing Acts, 1872—1874.

49 & 50
Vict. c. 56,
s. 2.

Legal proceed-
ings to follow
the Licensing
Acts, 1872-1874.

S. 7. The wording of this section is consistent with either the purchaser or any other person on the premises being the consumer of the spirits. Probably the better view is that the purchaser must be the consumer in order to complete the offence. Under s. 1 of the Act 49 & 50 Vict. c. 56, *supra*, the intoxicating liquor must be consumed by a person under the age of thirteen years, but not necessarily by the purchaser, in order to render the holder of the license liable. It will be for the justices to find as a fact whether the purchaser is "apparently under the age of sixteen years," under s. 7, *supra*.

As to evidence of sale or consumption, *see* s. 62, Licensing Act, 1872, p. 118.

Under 2 & 3 Vict. c. 94, s. 27, which applies to the city of London only, it is an offence for a licensed person to sell any exciseable liquor to a person under the age of sixteen for consumption on the premises.

See 57 & 58 Vict. c. 41, s. 2, as to restrictions on the employment of children in licensed premises.

FORGING CERTIFICATE.

32 & 33
Vict. c. 27,
s. 11.

Penalty on
forgery of
certificate.

11. If any person forge, or tender knowing the same to have been forged, any certificate authorised to be granted by this Act, he shall, on summary conviction before two or more justices, be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices before whom he is tried, to imprisonment for any period not exceeding six months, with or without hard labour. Any license granted in pursuance of such forged certificate shall be void, and any person making use of such forged certificate, knowing the same to have been forged, shall be disqualified from obtaining at any time thereafter a license for the sale of beer, cider, or wine by retail under any of the said recited Acts.

33 & 34
Vict. c. 29,
s. 4 (2).

4. (2.) And if any unauthorised person imitate or affix an impression of such seal on any certificate, or imitation of a certificate, or knowingly use a certificate or imitation of a certificate, falsely purporting to be sealed in pursuance of this section, he shall be guilty of forgery.

As to the enforcement of penalties adjudged under section 11, *see* 11 & 12 Vict. c. 43, s. 19.

The recited Acts referred to in s. 11 are 11 Geo. IV, and 1 Will. IV, c. 64; 4 & 5 Will. IV, c. 85; 3 & 4 Vict. c. 61; 24 & 25 Vict. c. 21; 26 & 27 Vict. c. 33; and 23 & 24 Vict. c. 27.

The portion of s. 4 (2) which is here omitted will be found at p. 16. It allows an official seal or stamp to be impressed on the certificate instead of the signature of the majority of justices. The provisions of s. 4 (2) are adopted by Licensing Act, 1872, s. 40 (3), *see* p. 28.

**33 & 34
Vict. c. 29,
s. 4 (2).**

ADULTERATION OF LIQUOR.

14. Where a licensed person is convicted of any offence against the provisions of any Act for the time being in force relating to the adulteration of drink, such conviction shall be entered in the proper register of licenses, and may be directed to be recorded on the license of the offender in the same manner as if the conviction were for an offence against this Act, and when so recorded shall have effect as if it had been a conviction for an offence against this Act.

**L.A. 1874,
s. 14.**

Record of conviction for adulteration.

8. (2.) A dealer in or retailer of beer shall not adulterate or dilute beer, or add any matter or thing thereto (except finings for the purpose of clarification), and any beer found to be adulterated or diluted or mixed with any other matter or thing (except finings) in the possession of a dealer in or retailer of beer shall be forfeited, and he shall incur a fine of fifty pounds.

**48 & 49
Vict. c. 51,
s. 8 (2).**

Prohibition against adulteration of beer by brewers for sale, and dealers and retailers of beer.

S. 14. The subject-matter of this section was formerly dealt with by ss. 19-22 inclusive, Licensing Act, 1872, now repealed by s. 33, Licensing Act, 1874; and offences in the matter of adulteration of liquors are now governed by the provisions of the Sale of Food and Drugs Acts, 1875, (38 & 39 Vict. c. 63) and 1879 (42 & 43 Vict. c. 30). *See* ss. 3, 5, 6, 7 & 8 of the Act of 1875, and ss. 2 & 6 of the Act of 1879.

In a prosecution under s. 6 of the Act of 1875 it is a good defence to prove that the admixture of water has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin, (42 & 43 Vict. c. 30, s. 6). Where a publican sold a purchaser gin, containing 43·15 per cent. of

L.A. 1874,
s. 14.

water, it was held that there was sufficient evidence to justify a conviction under s. 6, 38 & 39 Vict. c. 63, (*Webb v. Knight*, 2 Q.B.D. 530; 41 J.P. 726; 46 L.J.M.C. 264; 26 W.R. 14; see also *Pashler v. Stevenill*, 41 J.P. 136; 35 L.T. 862).

Where the seller brings to the purchaser's knowledge the fact that the article sold is not of the nature, substance, or quality of the article demanded, the sale is not "to the prejudice of the purchaser" within the meaning of s. 6, *supra*; so, where the following notice, "all spirits sold here are mixed—38 & 39 Vict. c. 63, ss. 8 & 9," was conspicuously posted in full view of customers at the bar window of licensed premises, it was held that the sale of whisky of an inferior quality to that demanded, did not justify a conviction under s. 6, (*Sandys v. Small*, 3 Q.B.D. 449; 42 J.P. 550; 47 L.J.M.C. 115; 39 L.T. 118; 26 W.R. 814; *Gage v. Elsey*, 10 Q.B.D. 518; 47 J.P. 391; 48 L.T. 226; 52 L.J.M.C. 44; 31 W.R. 500). In the latter case it was held that the appellant, who had sold gin more than 35 degrees under proof, but had brought a notice similar to that in *Sandys v. Small*, *supra*, to the knowledge of the purchaser, was not deprived of any defence he might have made under 38 & 39 Vict. c. 63, although he had not a good defence under s. 6 of the earlier Act. See also *Morris v. Johnson*, 54 J.P. 612, where a notice similar to the above was placed in the bar and kitchen, but not in the club-room where the purchasers were served, and nothing was said to them on delivery of the liquor. It was held that if the purchasers knew that the practice of the house was to sell diluted liquor only, the conviction would be wrong. Mere notice of dilution is not sufficient unless accompanied by the decision of justices that the purchaser was prejudiced, (*Morris v. Askew*, 57 J.P. 724). In the case of a person charged under s. 6, 38 & 39 Vict. c. 63, a false representation made prior to the sale is no offence, if a true one is made at the time the sale actually takes place, (*Kirk v. Coates*, 16 Q.B.D. 49; 50 J.P. 148; 55 L.J.M.C. 182; 54 L.T. 178; 34 W.R. 295). By s. 21, 38 & 39 Vict. c. 63, the certificate of the analyst is made evidence, and by s. 6, 42 & 43 Vict. c. 30, it is a good defence to a charge of selling rum adulterated with water to prove that the admixture has not reduced the rum more than 25 per cent. under proof; so, where a certificate omitted to state the proportion of water mixed with the rum, it was held to be insufficient, (*Newby v. Sims*, (1894), 1 Q.B. 478; 58 J.P. 263).

S. 8. (2). The mixture of small beer with stronger beer constitutes a dilution within the meaning of this section, (*Crofts v. Taylor*, 19 Q.B.D. 524 ; 51 J.P. 789 ; 56 L.J.M.C. 137 ; 57 L.T. 310 ; 36 W.R. 47, and *see* judgment of Huddleston, B., as to the intention of the Act, at p. 528). *See* s. 9, 48 & 49 Vict. c. 51, as to the enforcement of the above section.

48 & 49
Vict. c. 51,
s. 8 (2).

OFFENCES AGAINST PUBLIC ORDER.

12. Every person found drunk in any highway or other public place, whether a building or not, or on any licensed premises, shall be liable to a penalty not exceeding ten shillings, and on a second conviction within a period of twelve months shall be liable to a penalty not exceeding twenty shillings, and on a third or subsequent conviction within such period of twelve months be liable to a penalty not exceeding forty shillings.

L.A. 1872,
s. 12.

Penalty on
persons found
drunk.

Every person who in any highway or other public place, whether a building or not, is guilty while drunk of riotous or disorderly behaviour, or who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine, or who is drunk when in possession of any loaded fire-arms, may be apprehended, and shall be liable to a penalty not exceeding forty shillings, or in the discretion of the court to imprisonment with or without hard labour for any term not exceeding one month.

Where the court commits any person to prison for non-payment of any penalty under this section, the court may order him to be imprisoned with hard labour.

13. If any licensed person permits drunkenness or any violent, quarrelsome, or riotous conduct to take place on his premises, or sells any intoxicating

L.A. 1872,
s. 13.

Penalty for
permitting
drunkenness.

liquor to any drunken person, he shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds.

**L.A. 1872,
s. 18.**

Power to
exclude
drunkards from
licensed
premises.

18. Any licensed person may refuse to admit to and may turn out of the premises in respect of which his license is granted any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act.

Any such person who upon being requested in pursuance of this section by such licensed person, or his agent or servant, or any constable, to quit such premises, refuses or fails so to do, shall be liable to a penalty not exceeding five pounds, and all constables are required on the demand of such licensed person, agent, or servant to expel or assist in expelling every such person from such premises, and may use such force as may be required for that purpose.

The court committing any person to prison for non-payment of any penalty under this section may order him to be imprisoned with hard labour.

S. 12. There are seven sections in the Licensing Act, 1872, dealing with offences against public order, namely, sections 12–18 inclusive.

The offences contained in s. 12, *supra*, are five in number and are as follows :—

As regards the first paragraph :—

1. Being drunk in a highway or other public place, whether a building or not, and being so found.
2. Being found drunk on licensed premises.

As regards the second paragraph :—

3. Behaving while drunk in a riotous and disorderly manner in a highway or other public place, whether a building or not.

4. Being drunk while in charge of any carriage, horse, cattle, or steam engine on a highway or other public place. L.A. 1872,
s. 12.
5. Being drunk when in possession of loaded fire-arms.

In cases 1 and 2 it is competent for one justice only to hear and determine the case, (11 & 12 Vict. c. 43, s. 12, and Licensing Act, 1872, s. 51). The remaining cases, 3, 4 and 5, must be determined by at least two justices or a stipendiary magistrate, (Licensing Act, 1872, s. 51 (1)). The disqualification imposed on certain justices by Licensing Act, 1872, s. 60, does not apply to charges under s. 12, *supra*, see p. 18.

The above offences being distinct, a person specifically charged with one offence cannot be found guilty of another, (*Martin v. Pridgeon*, 1 E. & E. 778; 23 J.P. 630; 7 W.R. 412; 28 L.J.M.C. 179; *Loadman v. Cragg*, 26 J.P. 743), and where a statute creates two distinct offences and provides the same penalty for both, an information and conviction which state the offence in the alternative, as contrary to the statute, are insufficient, (*Cotterill v. Lempriere*, 24 Q.B.D. 634; 54 J.P. 583; 59 L.J.M.C. 133; 63 L.T. 695). An irregularity in a summons may be waived by a prisoner appearing and not objecting, (*R. v. Fletcher*, L.R. 1 C.C.R. 320; 35 J.P. 789; 40 L.J.M.C. 128; *R. v. Fletcher*, 48 J.P. 407; see also *Wells v. Cheyney*, 36 J.P. 198).

The period of imprisonment which may be imposed on a defendant in default of payment of a penalty under the first paragraph of s. 12, *supra*, is limited by the scale in 42 & 43 Vict. c. 49, s. 5.

Where under the second paragraph of s. 12, *supra*, the punishment is imprisonment only, the justices' power to order commitment is under 11 & 12 Vict. c. 43, s. 24, and see the form in Summary Jurisdiction Rules, 1886.

The words "highway or other public place, whether a building or not" appear to have the widest possible meaning. Had the words "whether a building or not" been omitted, "other public place" would no doubt be construed as meaning a place of the same character as a highway, according to the doctrine of *ejusdem generis*. Their inclusion, however, it is submitted, gives to the words "other public place" a character distinctive from highway (see the judgment of Lord Coleridge, C.J., in *Langrish v. Archer*,

L.A. 1872, 10 Q.B.D. 44, at p. 47 ; 47 J.P. 295 ; 52 L.J.M.C. 47 ; 31 s. 12. W.R. 183 ; 47 L.T. 548). In this case it was held that under s. 3 of the Vagrant Amendment Act, 1873, (36 & 37 Vict. c. 38) the words "any open place to which the public have or are permitted to have access" include a railway carriage while travelling on its journey ; see also *Ex parte Freestone*, 25 L.J.M.C. 121, and the remarks thereon of Lord Coleridge, C.J., and Stephen, J., in *Langrish v. Archer*, *ubi supra*. It is submitted that the words which describe the area of s. 12, *supra*, are as extensive as the words "premises which are used for public entertainment or resort" in s. 9, Licensing Act, 1872, (see p. 105, and notes).

In regard to case 2, namely, being found drunk on any licensed premises, see the definition of "licensed premises" and "license," Licensing Act, 1872, s. 74, p. 321. Licensed premises are alehouses having a license under 9 Geo. IV, c. 61, and premises in respect of which a certificate of justices has been granted under the Wine and Beerhouse Acts, 1869 and 1870.

The term "licensed premises" has been held to mean such premises when they are open to the public for the purposes of the license ; consequently a licensed person, who, after closing hours, when the premises are closed to the public, is found drunk on his own premises, is not liable to a penalty under s. 12, (*Lester v. Torrens*, 2 Q.B.D. 403 ; 41 J.P. 821 ; 25 W.R. 691 ; 46 L.J.M.C. 280 ; in this case both Mellor, J., and Lush, J., inclined to the opinion that had the licensed person been found drunk when his premises were open to the public he would have been liable to a penalty, (*Ibid*, pp. 404 and 405). In *R. v. Pelly*, (1897), 2 Q.B. 33 ; 61 J.P. 373 ; 66 L.J.Q.B. 519 ; 45 W.R. 504 ; 76 L.T. 467 ; 18 Cox 556, it was held that a customer, not being an inmate or a lodger, who was found drunk on licensed premises after the premises were in fact closed according to law, might be convicted under s. 12, *supra*. It was further held that licensed premises do not lose that character for the purposes of s. 12 by reason that after the hour of closing they are no longer open to the public. In this case *Leslie v. Torrens*, *ubi supra*, was considered, and the distinction between the two cases appears to be that in *Leslie v. Torrens*, the landlord was a mere private individual using his premises as a private house, whereas the defendant in *R. v. Pelly* was using the premises as licensed premises, (see the judgment of Hawkins, J., at p. 35). A licensed person

cannot be convicted of "permitting" drunkenness under s. 13, *supra*, where he himself gets drunk on his own premises, (*Warden v. Tye*, 2 C.P.D. 74, p. 116). L.A. 1872,
ss. 12, 13.

As to the meaning of the words "found on the premises," see s. 25, Licensing Act, 1872, and notes at p. 86.

There seems to be no doubt that under case 4, *supra*, a carriage would be held to include a bicycle, though no decision has as yet been given on this point under s. 12, *supra*. By the Local Government Act, 1888, (51 & 52 Vict. c. 41), s. 85, bicycles are declared to be carriages within the meaning of the Highway Acts, (see *Hatton v. Treeby*, (1897), 2 Q.B. 452, and judgment of Collins, J., at p. 455; see also *Taylor v. Goodwin*, 4 Q.B.D. 228; 43 J.P. 653; 48 L.J.M.C. 104; 40 L.T. 458; 27 W.R. 489; and judgment of Hawkins, J., in *R. v. Parker*, 59 J.P. 793, and note the distinction in *Williams v. Ellis*, 5 Q.B.D. 175; 44 J.P. 394; 49 L.J.M.C. 47; 42 L.T. 249; 28 W.R. 416).

S. 13. The offences created by this section are the permission by the licensed person of drunkenness or violent, quarrelsome, or riotous conduct to take place on his premises, or the sale by him of intoxicating liquor to any drunken person. "The first part of the section is intended to meet the case where there is no sale; but it does not follow that a man who is guilty of an offence against that provision may not also be guilty of an offence against the last part of the section," (*per* A. L. Smith, J., in *Edmunds v. James*, (1892) 1 Q.B. 18, *infra*).

The meaning of the word "permit" is the same as the word "suffer," which is found in ss. 16 & 17, Licensing Act, 1872, (see those sections and notes, pp. 123, 124). Although it appears from the cases decided under those sections in which the words "permit" and "suffer" occur, that the same principle is applicable to those sections, the notes to s. 13 are confined to the cases actually decided thereunder, and reference must be made to the other sections and notes thereon for the wider application of the principle.

A licensed person cannot be convicted of permitting drunkenness, etc., under s. 13, where, although the person is in fact drunk on the premises, the licensed person does not know that such person is drunk, (*Somerset v. Wade*, (1894) 1 Q.B. 574; 58 J.P. 231; 63 L.J.M.C. 126; 70 L.T. 452; 42 W.R. 399). It is not necessary that drink should have been supplied to the drunken person under the first part of this section, provided he is found drunk

L.A. 1872, on the premises, and the fact of his being drunk is known to the licensed person, (*Hope v. Warburton*, (1892) 2 Q.B. 134 ; 56 J.P. 328 ; 61 L.J.M.C. 147 ; 66 L.T. 589 ; 40 W.R. 510). It is not necessary that a person should be made drunk on the premises, so long as he is in fact drunk, (*Edmunds v. James*, (1892) 1 Q.B. 18 ; 56 J.P. 40 ; 61 L.J.M.C. 56 ; 40 W.R. 140 ; 65 L.T. 675).

A licensed person cannot be convicted of permitting drunkenness by reason of his being drunk on his own premises, (*Warden v. Tye*, 2 C.P.D. 74 ; 41 J.P. 120 ; 46 L.J.M.C. 111 ; 35 L.T. 852).

Where a person, who had been drinking in licensed premises, was found drunk in a ditch 100 yards away, three quarters of an hour afterwards, although this was the only evidence, it was held that it afforded some evidence upon which the justices might convict the licensee, and the Court refused to interfere, (*Ex parte Ethelstane*, 40 J.P. 39 ; 32 L.T. 339).

The second part of the section absolutely prohibits the sale to a drunken person, consequently, knowledge of the condition of the person served with liquor is not necessary to constitute the offence, (*Cundy v. Le Cocq*, 13 Q.B.D. 207 ; 48 J.P. 599 ; 53 L.J.M.C. 125 ; 51 L.T. 265 ; 32 W.R. 769), and even where the licensed person has given instructions to his barman not to serve drunken persons, the master will be liable, if the servant, acting within the general scope of his employment, serves a drunken person, although contrary to orders, (*Commissioners of Police v. Cartman*, (1896) 1 Q.B. 655 ; 60 J.P. 357 ; 65 L.J.M.C. 113 ; 74 L.T. 726 ; 44 W.R. 637 ; 18 Cox C.C. 341 ; 12 T.L.R. 334).

Where a sober and a drunken man, known to the licensee to be such, entered licensed premises and the former ordered liquor for both, which was consumed on the premises, the licensee was held to have been properly charged with selling liquor to a drunken person under s. 13, (*Scatchard v. Johnson*, 52 J.P. 389 ; 57 L.J.M.C. 41 ; 4 T.L.R. 462) ; and see Licensing Act, 1872, s. 62, as to evidence of sale and consumption, p. 118.

The liability of the master for the acts of his servant varies according to which of the above offences has been committed. The principle under the first part of the section appears to be that knowledge, connivance, or carelessness on the part of the servant will render the master responsible for the servant's acts, when the latter has been

left in charge of the premises and is acting within the general scope of his employment, (*see* the cases on this point under ss. 16 & 17, Licensing Act, 1872, pp. 124, 126). L.A. 1872,
ss. 13, 18.

The offence of selling liquor to a drunken person, however, since it is prohibitive, as explained above, will, when committed by a servant, acting within the general scope of his employment, render the master liable, even if the servant acts contrary to the express orders of his master, (*Commissioners of Police v. Cartman*, *ubi supra*).

An indictment for permitting drunkenness and other disorderly conduct, which did not specify the names of the drunken persons, or state that they were unknown, was held not to be too vague, (*Wray v. Toke*, 12 J.P. 804; 17 L.J.M.C. 183; 12 Q.B. 492).

The imposition of an increased penalty under s. 13 can only take place on a second and subsequent conviction for one of the offences made punishable by that section, (*cf. Re Authers*, 22 Q.B.D. 345; 58 L.J.M.C. 62; 60 L.T. 454; 37 W.R. 320; 53 J.P. 116; 16 Cox C.C. 588).

The justices may order a conviction under s. 13 to be recorded on the license, (Licensing Act, 1874, s. 13, p. 131).

A previous conviction may be proved by a certified extract from the register kept in pursuance of s. 22, 42 & 43 Vict. c. 49, and *see* Licensing Act, 1872, s. 58, p. 62.

S. 18. Persons, whose presence on the licensed premises will subject the licensed person to a penalty, are those mentioned in ss. 14–17 inclusive, p. 119 *et seq.* It is a condition precedent to the conviction of a person under this section that he has been requested to leave the licensed premises.

Even though the premises are an inn, a licensed person is justified in insisting on a customer leaving if he is in an unfit condition to be there, (*Pidgeon v. Legge*, 21 J.P. 743), in which case a chimney-sweep in his working clothes was held to answer to the above description; *see* also *R. v. Rymer*, 2 Q.B.D. 136; 46 L.J.M.C. 108; 35 L.T. 774; 25 W.R. 415; 13 Cox C.C. 378; and notes to s. 49, Licensing Act, 1872, p. 35, and *Howell v. Jackson*, 6 C. & P. 725).

Where several persons were charged in one information with being disorderly on licensed premises and refusing to leave on request, it was held that an objection that each case ought to have been taken separately having been waived, a separate conviction against each person was right, (*Wells v. Cheyney*, 36 J.P. 198).

L.A. 1872,
s. 18.

A person can only be committed to prison for non-payment of the penalty in the event of distress proving insufficient, (*see* 42 & 43 Vict. c. 49, s. 21, and 47 & 48 Vict. c. 43, s. 5, and Licensing Act, 1872, s. 51, and notes, p. 148).

As to refreshment-houses, *see* 23 Vict. c. 27, s. 41.

Offences under ss. 12, 13, and 18, *supra*, may be committed on premises having an occasional license, (Licensing Act, 1874, s. 20, p. 32).

EVIDENCE OF SALE OR CONSUMPTION OF INTOXICATING LIQUOR.

L.A. 1872,
s. 62.

62. In proving the sale or consumption of intoxicating liquor for the purpose of any proceeding relating to any offence under this Act, it shall not be necessary to show that any money actually passed, or any intoxicating liquor was actually consumed, if the Court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place; and proof of consumption or intended consumption of intoxicating liquor on premises to which a license under this Act is attached, by some person other than the occupier of or a servant in such premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same by or on behalf of the holder of such license.

The case of *Petherick v. Sargent*, 26 J.P. 135; 6 L.T. 48, was decided before the Licensing Act, 1872, and were it necessary to decide upon similar facts having regard to s. 62, a different decision would probably be arrived at.

The latter part of the section makes proof of consumption proof of sale, (*see* judgment of A. L. Smith, J., in *Scatchard v. Johnson*, 52 J.P. 389; 57 L.J.M.C. 41). In that case a drunken man consumed liquor on licensed premises, which was ordered and paid for by a sober man who accompanied him. It was held that these facts

afforded evidence of sale to the drunken man, *see* s. 13, L.A. 1872, Licensing Act, 1872, p. 111; *see* also *Stevens v. Wood*, 54 J.P. 742, where one of the rules of the club forbade strangers to pay money direct to the manager, and a stranger ordered liquor, handing the money to a member, who gave it to the waitress. The stranger received the liquor, and it was held that these facts constituted a sale to him. *See* also *Seager v. White*, 48 J.P. 436; 51 L.T. 261. The word "evidence" in the latter part of the section does not mean conclusive, but merely *prima facie* evidence, which may be rebutted by the defendant, (*see* the judgment of Mellor, J., in *Harbottle v. Gill*, 41 J.P. 742). The sections which deal with offences in regard to the sale of liquor, and to which s. 62 is applicable, are ss. 3, 5, 6, 7, 8, Licensing Act, 1872, and s. 9, Licensing Act, 1874.

KEEPING A DISORDERLY HOUSE.

14. If any licensed person knowingly permits his premises to be the habitual resort of or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, he shall, if he allows them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment, be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds.

L.A. 1872,
s. 14.

Penalty for
keeping dis-
orderly house.

15. If any licensed person is convicted of permitting his premises to be a brothel, he shall be liable to a penalty not exceeding twenty pounds, and shall forfeit his license, and he shall be disqualified for ever from holding any license for the sale of intoxicating liquors.

L.A. 1872,
s. 15.

Penalty for
permitting
premises to be
a brothel.

S. 14. Enactments similar to this section are 2 & 3 Vict. c. 47, s. 44, relating to keepers of refreshment-houses in the Metropolitan police district; Town Police Clauses Act (10 & 11 Vict. c. 89, s. 35), (*see* *Cole v. Coulton*, 24 J.P. 596; 2 E. & E. 695; 29 L.J.M.C. 125; 2 L.T. 216; 8 W.R. 412), and the Public Health Act, 1875, (38 & 39 Vict. c. 55, s. 171).

L.A. 1872,
s. 14.

The word "knowingly" is used in this section in the same sense as in s. 16, (*see* notes to that section, p. 123), namely, to cast upon the prosecution the burden of proving the knowledge of the defendant that the women are reputed prostitutes, (*see* judgment of Day, J., in *Sherras v. De Rutzen*, (1895) 1 Q.B. 918, p. 123, and *see* also *Somerset v. Wade*, (1894) 1 Q.B. 574; 58 J.P. 231; 63 L.J.M.C. 126; 70 L.T. 452; 42 W.R. 399; 10 T.L.R. 313, and judgment of Mathew, J., as follows: "In 's. 14 the word 'knowingly' applies to the character of 'the persons who are permitted to resort to the premises'"). *See* also judgment of Collins, J., in the same case.

The notes to Licensing Act, 1872, s. 17, p. 125, as to the liability of the master for the act of his servant, and as to the meaning of the word "suffer" are applicable to this section. Under 23 & 24 Vict. c. 27, s. 32, a similar enactment to the above, it has been held that the mere fact of prostitutes assembling is not sufficient to bring the case within the statute, which requires that they should meet as such to the knowledge of the keeper of the house. It is not necessary for the purpose of conviction that prostitution should be actually planned at the time, (*see* the judgment of Blackburn, J., at p. 19, *Belasco v. Hannant* and *Barton v. Hannant*, 3 B. & S. 13; 26 J.P. 823; 31 L.J.M.C. 225; 6 L.T. 577; 10 W.R. 867). Nor is it necessary under the following words of a private Act, namely, "knowingly permit disorderly conduct or knowingly suffer prostitutes to meet together and remain therein," *i.e.*, the premises, that disorderly conduct should in fact take place, if the prostitutes are there in the capacity of prostitutes and not of persons only requiring refreshments, (*Greig v. Bendeno*, E. B. & E. 133; 22 J.P. 816; 27 L.J.M.C. 294; 31 L.T. (O.S.) 97; 6 W.R. 474; *see* also *Purkis v. Huxtable*, 1 E. & E. 780; 28 L.J.M.C. 221; 23 J.P. 197; 7 Jur. 790; *Whitfield v. Bainbridge*, 30 J.P. 644; and *Sharp v. Hughes*, 57 J.P. 104). Where it was proved that at least fourteen prostitutes assembled and met at the defendant's house, it was held that evidence that several of the same prostitutes had so met and assembled on previous occasions was admissible, (*Parker v. Green*, 2 B. & S. 299; 26 J.P. 247; 31 L.J.M.C. 131; 10 W.R. 316). In the earlier statutes it will have been observed that there is nothing to render the master of the house liable, so long as prostitutes go to his premises like any other class of persons merely for the purpose of refreshment, and do not by staying "longer than is necessary to

obtain reasonable refreshment," lose their capacity of private individuals and convert themselves into prostitutes who are there for the purpose of their calling. The words above quoted, although used for the first time in the statutes in s. 14, appear to have been always implied in dealing with cases of this nature (*see Greig v. Bendeno, ubi supra*). The principle applied to the construction of the earlier statutes seems to be equally applicable to the interpretation of s. 14. Under this section the licensed person is subject to no liability by the mere presence on his premises of reputed prostitutes as customers, but if they remain there after the lapse of such a period of time as will enable them to obtain reasonable refreshment, then from the moment of the expiration of such a period, the licensed person will be liable. What constitutes such a period of time is in each case a question of fact to be found by the magistrates, and will depend on the nature of the refreshment with which the reputed prostitute is supplied. In order to obtain a conviction under this section, it must be proved, first, that the licensed person, or some other person to whom he has delegated the charge of his business, knew that the women were reputed prostitutes, and, secondly, that he, or such person as aforesaid, allowed them to remain on the premises longer than was necessary for the purpose of obtaining reasonable refreshment.

L.A. 1872,
s. 14.

The renewal of a license is often sought to be prevented on the ground of prostitutes having resorted to the licensed premises, and where a licensed person tendered no witnesses to rebut the evidence, that on several occasions seventeen prostitutes had been found on the licensed premises at one and the same time to the knowledge of the licensed person, as he might have done by showing that they were there for the purpose of refreshment, the justices were held to have been justified, after notice of opposition had been proved, in refusing the renewal of the license, (*Sharp v. Hughes, ubi supra*). On a prosecution for permitting drunken and disorderly conduct, an indictment which omitted to specify the names of the drunken persons, or to allege that they were unknown, was held not to be too vague, (*Wray v. Toke*, 12 Q.B. 492; 12 J.P. 804; 17 L.J.M.C. 183; 12 L.T. 289).

The justices may order a conviction for an offence under s. 14, *supra*, to be recorded on the license. Under s. 15, *supra*, it will be observed that forfeiture and disqualification follow the infliction of a penalty.

L.A. 1872,
s. 15.

S. 15. There is a distinction between the offences of keeping a brothel and permitting premises to be a brothel, (*see* judgment of Grove, J., in *R. v. Holland JJ.*, 46 J.P., at p. 313), the latter being the offence created by this section. The offence consists of "permitting people of opposite sexes to come there (*i.e.* the licensed premises) and have illicit sexual intercourse," *ibid.* It is not necessary in order to prove the commission of the offence that the licensed person should be present when the offence is committed, nor is more than a single instance necessary; *ibid.* In this case the facts were of such a nature as to lead to the presumption that the offence charged was not the only instance, (*see* judgment of Grove, J., *ibid.*) The word "brothel" does not apply to the use of a house by one woman, who receives a number of men for the purpose of prostitution, (*Singleton v. Ellison*, (1895), 1 Q.B. 607; 59 J.P. 119; 64 L.J.M.C. 123; 72 L.T. 236; 43 W.R. 426); but a lodger using her room to accommodate fornicators keeps a bawdy-house no less than if she had the whole house, (*R. v. Peirson*, 2 Ld. Raym. 1197; 1 Salk. 382). "A brothel is the same thing as a bawdy-house," (*per* Wills, J., *Singleton v. Ellison*, *ubi supra*, at p. 608). Although a landlord who receives the ordinary amount of rent for a house knowing that it is kept as a disorderly house, and does not give his tenant notice to quit, cannot be indicted for keeping, or being accessory to keeping, a bawdy-house, (*R. v. Barrett*, 26 J.P. 805; L. & C. 263; 32 L.J.M.C. 36; 7 L.T. 435; 11 W.R. 124), nor can an owner, who retains no part in, or control over, a house let by him to women for immoral purposes be found guilty of keeping a disorderly house, (*R. v. Stannard*, 28 J.P. 20; L. & C. 349; 33 L.J.M.C. 61; 9 L.T. 428; 12 W.R. 208), it is submitted that a licensed person who permitted only one room to be so used would be liable to conviction under the above section.

The "word 'suffers' is not distinguishable from the "word 'permits'" *per* Mathew, J., in *Somerset v. Wade*, *ubi supra*, and *see* notes to Licensing Act, 1872, s. 17, p. 126.

A license existing on May 1, 1869, and forfeited on a conviction for the above offence is not "in force" within the meaning of 32 & 33 Vict. c. 27, s. 19, p. 66, (*R. v. West Riding JJ.*, 21 Q.B.D. 258; 52 J.P. 455; 57 L.J.M.C. 103; 36 W.R. 855).

See the definitions of license and licensed person, (Licensing Act, 1872, s. 74). The above sections apply to

the holder of an occasional license, (Licensing Act, 1874, s. 20). As regards the mitigation of penalties, *see* s. 12, *ibid.* **L.A. 1872, s. 15.**
See also the Criminal Law Amendment Act, 1885, (48 & 49 Vict. c. 69, s. 13).

After the words "on a third or subsequent conviction," the words "for the same offence under this section" must be understood. The register of the clerk of the convicting court, or a certified extract therefrom, will be sufficient proof of a previous conviction, (42 & 43 Vict. c. 49, s. 22, and *see* also Licensing Act, 1872, s. 58, p. 62.)

PENALTY FOR HARBOURING CONSTABLE.

16. If any licensed person—

**L.A. 1872,
s. 16.**

- (1.) Knowingly harbours or knowingly suffers to remain on his premises any constable during any part of the time appointed for such constable being on duty, unless for the purpose of keeping or restoring order or in execution of his duty; or
 - (2.) Supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty unless by authority of some superior officer of such constable; or
 - (3.) Bribes or attempts to bribe any constable,
- he shall be liable to a penalty not exceeding, for the first offence, ten pounds, and not exceeding, for the second or any subsequent offence, twenty pounds.

S. 16. The prescnee of the word "knowingly" in sub-s. 1 and its omission in sub-s. 2 is thus explained by Day, J., in *Sherras v. De Rutzen*, (1895), 1 Q.B. 918; 59 J.P. 440; 64 L.J.M.C. 218; 72 L.T. 839; 43 W.R. 526, "In my opinion the only effect of this is to shift the burden of proof. In cases under sub-s. 1 it is for the prosecution to prove the knowledge, while in cases under sub-s. 2 the defendant has to prove that he did not know."

For the meaning of the word "suffers," *see* Licensing Act, 1872, s. 17, and notes on "suffering gaining," etc., p. 126.

L.A. 1872,
s. 16.

A constable is acting in the execution of his duty in expelling from licensed premises a drunken person on the demand of the licensee under Licensing Act, 1872, s. 18, in demanding the name and address of persons found on premises during closing hours under s. 25, *ibid*, and in entering licensed premises for the purpose of preventing or detecting offences against the Licensing Acts.

Sub-s. 2 does not contain an absolute prohibition against serving a constable on duty, like s. 13, Licensing Act, 1872, p. 111, (*Cundy v. Le Cocq*, 13 Q.B.D. 207). It is necessary to show guilty knowledge on the part of the defendant, or of some person acting on his behalf, by his general or particular orders, to constitute an offence under this sub-s. *Bonâ fide* belief in the constable being off duty is a good defence to a prosecution for this offence, (*Sherras v. De Rutzen*, *ubi supra*.)

As regards the liability of the master for the act of his servant, *see* the cases cited in the notes to Licensing Act, 1872, sect. 17, p. 126. The case of *Mullins v. Collins*, L.R. 9 Q.B. 292; 38 J.P. 629; 43 L.J.M.C. 67; 29 L.T. 838; 22 W.R. 297, has raised some difficulty, and the judgment has been explained by Lord Coleridge, C.J., in *Somerset v. Hart*, 12 Q.B.D., at p. 363, as having been "in affirmance of a conviction." It is submitted that, although it was not proved that the master had delegated his authority to the servant, nevertheless the assumption that such delegation had in fact taken place in the ordinary course of business, formed part of the grounds upon which the decision was based, (*see* the judgment of Quain, J., at p. 295, L.R. 9 Q.B.).

As regards the mitigation of penalties under the above section, *see* Licensing Act, 1874, s. 12, p. 153.

This section applies to the holder of an occasional license, (Licensing Act, 1874, s. 20, p. 32, and *see* definition of licensed person in Licensing Act, 1872, s. 74). The justices may order a conviction to be recorded on the license, (Licensing Act, 1874, s. 13, p. 131).

As to evidence of sale, (*see* Licensing Act, 1872, s. 62, p. 118).

PENALTY FOR PERMITTING GAMING.

L.A. 1872,
s. 17.

17. If any licensed person—

(1.) Suffers any gaming or any unlawful game to be carried on on his premises; or

- (2.) Opens, keeps, or uses, or suffers his house to be open, kept, or used in contravention of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter one hundred and nineteen, intituled "An Act for the suppression of betting houses,"

L.A. 1872,
s. 17.

he shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds.

1. No house, office, room, or other place shall be opened, kept or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by or acting for or on behalf of such owner, occupier or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper or person as aforesaid, as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event as aforesaid; and every house, office, room, or other place opened, kept or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance and contrary to law.

16 & 17
Vict. c. 119,
s. 1.

No house, &c.,
to be kept for
purpose of
owner or
occupier betting
with other
persons.

S. 17. As regards "gaming," the license holder is liable if he suffers any game, whether lawful in itself or not, to be played in the licensed premises for money or money's worth. Where the appellant, a licensed person, allowed a

L.A. 1872, game of skill called "skittle pool" to be played for money
s. 17. on a billiard table in the licensed premises, it was held that he could be convicted of suffering gaming under s. 17, (*Dyson v. Mason*, 22 Q.B.D. 351; 53 J.P. 262; 58 L.J.M.C. 55; 60 L.T. 265; following *Patten v. Rhymmer*, 3 E. & E. 1; 24 J.P. 342; 29 L.J.M.C. 189; 2 L.T. 352; 8 W.R. 496; *Danford v. Taylor*, 33 J.P. 612; 20 L.T. 483; *Luff v. Leaper*, 36 J.P. 773; and *R. v. Ashton*, 1 E. & B. 286; 16 J.P. 790; 22 L.J.M.C. 1; 20 L.T. (O.S.) 110). The doubt entertained by Cockburn, C.J., as to an element of chance in a game being necessary to bring a case within the statute, in *Bew v. Harston*, 3 Q.B.D. 454; 42 J.P. 808; 47 L.J.M.C. 121; 39 L.T. 233; 26 W.R. 915, was commented upon and disregarded by the Court in *Dyson v. Mason*, *ubi supra*.

As the offence under s. 17 is "suffering any gaming or any unlawful game," a licensed person cannot be convicted in the absence of knowledge, or connivance or carelessness on his part, (*Somerset v. Wade*, (1894), 1 Q.B. 574; see judgment of Mathew, J., at p. 576; 58 J.P. 231; 63 L.J.M.C. 126; 70 L.T. 452; 42 W.R. 399; *Avards v. Dance*, 26 J.P. 437). In order to support a conviction under the above section, it is necessary that some evidence should be given of actual or constructive knowledge on the part of the person charged, (*Bosley v. Davies*, 1 Q.B.D. 84; 40 J.P. 550; 45 L.J.M.C. 27; 33 L.T. 528; 24 W.R. 140). It is not necessary to prove actual knowledge; connivance on the part of the licensed person or the person in charge of the premises is sufficient, (*Redgate v. Haynes*, 1 Q.B.D. 89; 41 J.P. 86; 45 L.J.M.C. 45; 33 L.T. 779; see also *Somerset v. Hart*, 12 Q.B.D. 360; 48 J.P. 327; 53 L.J.M.C. 77, approved and followed in *Somerset v. Wade*, *ubi supra*).

Knowledge, connivance, or carelessness on the part of a servant will render his master liable, where the former has been left in charge of the premises, and is acting within the scope of his employment, but not otherwise, (*Crabtree v. Hole*, 43 J.P. 799; *Bond v. Evans*, 21 Q.B.D. 249; 52 J.P. 613; 57 L.J.M.C. 105; 59 L.T. 411; 36 W.R. 767); see also *Mullins v. Collins*, L.R. 9 Q.B. 292; 38 J.P. 629; 43 L.J.M.C. 67; 29 L.T. 838; 22 W.R. 297, a case under s. 16, Licensing Act, 1872, p. 123, and commented upon by Coleridge, C.J., in *Somerset v. Hart*, and by Manisty, J., in *Bond v. Evans*, *ubi supra*; see also the judgment of Cave, J., in *Massey v. Morriss*, (1894), 2 Q.B. 412; 58 J.P. 673; 63 L.J.M.C. 185; 70 L.T. 873; 42

W.R. 638). In a case decided under 6 Geo. IV, c. 81, s. 26, 4 & 5 Will. IV, c. 85, s. 17, and 23 Vict. c. 27, s. 19, it was held that where a steward had acted contrary to the express orders of the trustees and members of the managing committee of a club, and without their knowledge or assent, the trustees were not responsible for the acts of the steward, (*Newman v. Jones*, 17 Q.B.D. 132; 50 J.P. 373; 55 L.J.M.C. 113; 55 L.T. 327). L.A. 1872,
s. 17.

Although under s. 17 the licensed person alone can be convicted and no penalty attaches to the persons found gaming on licensed premises, it is probable that they might be convicted of aiding and abetting under 11 & 12 Vict. c. 43, s. 5, (*see the judgment of Denman, J., in Cooper v. Osborne*, 40 J.P., at p. 760; 35 L.T. 347).

Under s. 5 of the above statute the servant may be convicted of aiding and abetting, (*Wilson v. Stewart*, 3 B. & S. 913; 27 J.P. 661; 32 L.J.M.C. 198; 8 L.T. 277; 11 W.R. 640).

The fact that the gaming is carried on by private friends of the licensed person *bonâ fide* entertained by him in his private room is no defence to a charge under s. 17, *supra*, (*Osborne v. Hare*, 40 J.P. 759; 34 L.T. 294, (*nom. Hare v. Osborne*), and *see Patten v. Rhymer*, 3 E. & E. 1; 24 J.P. 342; 29 L.J.M.C. 189; 2 L.T. 352; 8 W.R. 496, decided under 9 Geo. IV, c. 61, s. 21, now repealed).

Sub-s. (2) and 16 & 17 Vict. c. 119, s. 1. It will be observed that the penalty prescribed by sub-s. 2 is limited to £10 for the first offence, and £20 for the second and any subsequent offence, whereas the penalty prescribed by s. 3, 16 & 17 Vict. c. 119, is limited to £100. Where a person was convicted under s. 3 of the earlier Act and fined £100, it was held that, though the same offence is punishable under s. 17 (2), *supra*, with a fine of £10, there was no implied repeal of the former Act by the later Act, as s. 59, Licensing Act, 1872, keeps the former Act in force, (*Sims v. Pay*, 53 J.P. 420; 58 L.J.M.C. 39; 60 L.T. 602).

As to what are unlawful games, *see Jenks v. Turpin*, 13 Q.B.D. 505; 49 J.P. 20; 53 L.J.M.C. 161; 50 L.T. 808).

By s. 11 of 8 & 9 Vict. c. 109, an alehouse-keeper licensed under 9 Geo. IV, c. 61, is not required to have an additional license for a public billiard or bagatelle table. No play is allowed to take place, even by lodgers, after closing hours, (8 & 9 Vict. c. 109, s. 13; *Ovenden v.*

16 & 17 *Raymond*, 40 J.P. 727 ; 34 L.T. 698 ; see Licensing Act,
Vict. c. 119, 1872, s. 75).
s. 1.

Persons, other than alehouse-keepers licensed under 9 Geo. IV, c. 61, must apply for billiard licenses under 8 & 9 Vict. c. 109, ss. 10-14, 20, and Sched. III., and Licensing Act, 1872, s. 75.

No play may take place after one and before eight o'clock in the morning of any day, nor at any time on Sundays, Christmas Day, Good Friday, or any public fast or thanksgiving day, (8 & 9 Vict. c. 109, s. 13). The penalty for an offence against the tenor of a billiard license is the same as that for suffering gaming, etc., under s. 17, *supra*, (s. 75, Licensing Act, 1872). The holder of a billiard license is liable to penalties for allowing the consumption of exciseable liquor on the premises mentioned in the license, (8 & 9 Vict. c. 109, Sched. III.). Beer is not an exciseable liquor, (*Jones v. Whittaker*, L.R. 5 Q.B. 541 ; 34 J.P. 663 ; 39 L.J.M.C. 139 ; 22 L.T. 535 ; 18 W.R. 1197 ; 43 & 44 Vict. c. 20, s. 47).

There is no right of appeal against the refusal to grant a billiard license, (*Ex parte Chamberlin*, 8 E. & B. 644, and 21 J.P. 773 ; 30 L.T. (O.S.) 150 ; 6 W.R. 75 (*nom. R. v. Devonshire JJ.*)).

S. 1, 16 & 17 Vict. c. 119, *supra*, creates two separate and distinct offences, namely, keeping, etc., the places referred to, first, for the purpose of betting with persons resorting thereto, and, secondly, for the purpose of receiving deposits on bets. Therefore, where a person, being the occupier, was charged with keeping a room, for the purpose of betting with persons resorting thereto, and the justices found that he had kept the room for that purpose, but it was not shown that he kept it for the purpose of receiving deposits on bets, it was held that the offence under the first part of the section was complete, (*Bond v. Plumb*, (1894), 1 Q.B. 169 ; 58 J.P. 168 ; 70 L.T. 405 ; 42 W.R. 222).

On the trial of an indictment under s. 1, *supra*, for keeping a house for the purpose of betting with persons resorting thereto, it is unnecessary to show that such persons have physically resorted to the premises, the gist of the offence being the opening and keeping of a house *for the purpose* of betting with persons resorting thereto. "It is the purpose which is condemned, and if a person "opens such a place, and issues advertisements, cards, etc., "there would be ample evidence to justify a conclusion that "he opened it for a purpose condemned by the Act," (*per*

Lord Russell, C.J., in *R. v. Brown*, *infra*); but where no other evidence than that of resorting is offered in support of such an indictment, there must be evidence of a physical resorting, and it is not enough to show that letters and telegrams were sent to the accused, directing him to make bets with the senders; persons sending such letters and telegrams do not resort to the house within the meaning of the section, (*R. v. Brown*, (1895), 1 Q.B. 119; 59 J.P. 485; 64 L.J.M.C. 1; 72 L.T. 22; 43 W.R. 222).

16 & 17
Vict. c. 119,
s. 1.

The owner or occupier of any house, office, room or other place, or any person using the same are the persons punishable under s. 3, 16 & 17 Vict. c. 119.

Where it was proved that an informer had paid two visits to the appellant's house and made bets with him on horse races, money passing between them, and books and documents relating to betting were found in the house, and remarks were made by the appellant tending to show that he had recently used the books and documents, it was held that the appellant was rightly convicted, (*Foot v. Butler*, 41 J.P. 292). In *Davis v. Stephenson*, 24 Q.B.D. 529; 54 J.P. 565; 59 L.J.M.C. 73; 62 L.T. 431; 38 W.R. 492, a keeper of a licensed house allowed a person, who made bets near to the house, to deposit within money which had been received by him outside the house. It was held that the money having been received by the depositor outside the house, the licensee was not liable to be convicted for suffering the house to be used by the depositor for the purpose of money being received by him by way of betting contrary to ss. 1 & 3 of 16 & 17 Vict. c. 119. In *Whitehouse v. Fincher*, 54 J.P. 565; 62 L.T. 433, H received bets on horse races on a piece of waste land outside D's licensed premises, but over which D had no control. The bets were in packets, enclosing money, and were taken by D's daughter into the licensed premises and kept there till H opened them. Persons betting with H did not go to D's premises. It was held that there was no evidence that D suffered his house to be used contrary to s. 3, *supra*. It is not necessary that a bookmaker who resorts to licensed premises for the purpose of betting, and actually bets there, should occupy any fixed and ascertained spot in such premises. It is enough to show that the licensed person has permitted the bookmaker to be in a room for the purpose of inviting people to come and bet with him, (*Hornsby v. Raggett*, (1892), 1 Q.B. 20; 56 J.P. 135; 61 L.J.M.C. 24; 66 L.T. 21; 40 W.R. 111).

16 & 17
Vict. c. 119,
s. 1.

Where a bookmaker went to the bar of a public house nine days out of fourteen and received bets on horse races from all comers, seated at a table with sporting papers and slips and cards, it was held that, although he had no exclusive interest in the bar, he was liable to be convicted under s. 3, 16 & 17 Vict. c. 119, (*M'William v. Dawson*, 56 J.P. 182; see also *R. v. Worton*, (1895), 1 Q.B. 227; 64 L.J.M.C. 74; 72 L.T. 29).

A holder of an occasional license is deemed to be a licensed person within the meaning of s. 17, *supra*, (Licensing Act, 1874, s. 20, p. 32, and see definition of licensed person in s. 74, Licensing Act, 1872).

The justices may order a conviction under s. 17, and s. 1, *supra*, to be recorded on the license, (Licensing Act, 1874, s. 13, p. 131).

As regards the mitigation of penalties under s. 17, *supra*, see Licensing Act, 1874, s. 12, p. 153.

RECORD OF CONVICTIONS.

L.A. 1872,
s. 55.

As to record of
convictions of
licensed persons
for offences
under Act.

55. With respect to the record of convictions of licensed persons for offences under this Act committed by them as such, the following provisions shall have effect in cases where this Act requires the conviction to be recorded on the license; that is to say,

- (1.) The court before whom any licensed person is accused shall require such person to produce and deliver to the clerk of the court the license under which such person carries on business, and the summons shall state that such production will be required:
- (2.) If such person is convicted, the court shall cause the short particulars of such conviction, and the penalty imposed, to be endorsed on his license before it is returned to the offender:
- (3.) The clerk to the licensing justices shall enter the particulars respecting such conviction, or such of them as the case may require, in the register of licenses, kept by him under this Act:

- (4.) If the clerk to the court be not the clerk to the licensing justices, he shall send forthwith to the last-mentioned clerk notice of such conviction, and of the particulars thereof: **L.A. 1872, s. 55.**
- (5.) Where the conviction of any such person has the effect of forfeiting the license, or of disqualifying any person or premises for the purposes of this Act, the license shall be retained by the clerk of the court, and notice of such forfeiture and disqualification shall be sent to the licensing officer of the district, and if the clerk to the court is not the clerk to the licensing justices to such last-mentioned clerk, together with the forfeited license.

13. Where any licensed person is convicted of any offence against the principal Act, which by such Act was to have been or might have been indorsed upon the license, or of any offence against this Act, the court before whom the offender is brought shall cause the register of licenses in which the license of the offender is entered, or a copy of the entries therein relating to the license of the offender, certified in manner prescribed by section fifty-eight of the principal Act, to be produced before passing sentence; and after inspecting the entries therein in relation to the license of the offender, or such copy thereof as aforesaid, the court shall declare, as part of its sentence, whether it will or will not cause the conviction for such offence to be recorded on the license of the offender, and if it decide that such record be made, the same shall be made accordingly. **L.A. 1874, s. 13.**

Record of
convictions on
licenses.

A declaration by the court that a record of an offence is to be made on a license shall be deemed to be part of the conviction or order of the court in reference to such offence, and shall be subject to the jurisdiction of the Court of Appeal.

L.A. 1874,
s. 13.

A direction by the court that a conviction for an offence is to be recorded on the license of the offender shall, for the purposes of the principal Act, be deemed equivalent to a direction or requirement by the Act that such conviction is to be recorded; and all the provisions of the principal Act importing that convictions are required or directed by the Act to be recorded on the license of an offender shall be construed accordingly.

L.A. 1872,
s. 33.

Omission to
record conviction
on license.

33. Where a conviction for an offence is by this Act directed to be recorded on the license of any person, the fact of no such record having being made shall not, if such conviction be otherwise proved to the satisfaction of the court having cognisance of any case under this Act, exempt such person or the premises occupied by him from any penalty to which such person or premises would have been subject if such record had been duly made. And on such proof being given the omitted conviction may be recorded accordingly, and shall be deemed to have been duly recorded in accordance with this Act.

L.A. 1872,
s. 34.

Penalty for
defacing record
of conviction on
license.

34. If any person defaces or obliterates, or attempts to deface or obliterate, any record of a conviction on his license, he shall be liable to a penalty not exceeding five pounds.

S. 55. By s. 13, *supra*, the licensing justices have now a discretion as to recording convictions on licenses, and s. 55 is therefore modified to this extent.

See s. 36, Licensing Act, 1872, p. 60, as to keeping a register of licenses, and s. 58, *ibid*, p. 62, as to evidence of endorsements and register.

See s. 64, Licensing Act, 1872, p. 60, as to the penalty for non-production of license when demanded by a justice of the peace, constable, or officer of Inland Revenue.

See s. 74, Licensing Act, 1872, p. 322, for definition of "licensing officer."

S. 13. By this section it is left to the discretion of the justices as to whether or not convictions for offences under ss. 5, 6, 13, 14, 16, 17, 28, Licensing Act, 1872, and ss. 9, 14, Licensing Act, 1874, are to be recorded on the license. Under Licensing Act, 1872, convictions for offences under ss. 5 and 6 were ordered to be recorded on the license of the convicted person, while those under ss. 13, 14, 16, 17, and 28 were ordered to be so recorded unless the justices directed otherwise. By s. 33, Licensing Act, 1874, the provisions as to records of convictions in the above sections were repealed, and were replaced by the provisions of s. 13. L.A. 1874,
s. 13.

Where the lessee of a public-house covenants to do nothing which may affect, lessen or make void his license, the fact of his being convicted twice without having his license endorsed with the conviction will not be a breach of the covenant, but *quære* "whether the license would have "been 'affected' if one conviction only had been endorsed "on it, so as to require a second conviction to be endorsed "and a third conviction to happen before the license could "be forfeited," (*per* Mellish, L.J., in *Wooler v. Knott*, 1 Ex.D. 265; also at p. 124; 40 J.P. 247, 788; 45 L.J. Ex. 313, 884; 34 L.T. 362; 35 L.T. 121; 24 W.R. 615, 1004).

A conviction, which is not ordered to be recorded on the license, is no breach of a covenant to "conduct and manage "the business of an inn, tavern, or beerhouse-keeper, in such "proper and orderly manner as to afford no ground or "pretext whatever whereby the license or licenses should or "might be suspended, discontinued, forfeited, or be in any "danger of being suspended, discontinued or forfeited," (*Fleetwood v. Hull*, 23 Q.B.D. 35; 54 J.P. 229; 37 W.R. 714; 60 L.T. 790; 58 L.J.M.C. 341); but where the lessee covenanted to do "no act whereby the license may be "forfeited," two convictions recorded on his license were held to be a breach of the covenant, (*Harmann v. Powell*, 56 J.P. 150; 60 L.J.Q.B. 628; 65 L.T. 255).

S. 33. This section extends to all cases in which the justices have directed the conviction to be recorded on the license; *see* notes to s. 13, Licensing Act, 1874, *supra*. *See* also *Galopin v. Parson*, 61 J.P. 184.

S. 34. Section 36, Licensing Act, 1872, p. 60, directs records of convictions to be entered on the register of licenses, thus providing a safeguard in case of an offence being committed under s. 34, *supra*.

FORFEITURE AND DISQUALIFICATION.

**L.A. 1872,
s. 30.**

Forfeiture of
license on
repeated con-
victions.

30. If any licensed person on whose license two convictions for offences committed by him against this Act have been recorded is convicted of any offence which is directed by this Act to be recorded on his license, the following consequences shall ensue; that is to say,

- (1.) The license of such licensed person shall be forfeited, and he shall be disqualified for a term of five years from the date of such third conviction from holding any license; and
- (2.) The premises in respect of which his license was granted shall, unless the court having cognizance of the case in its discretion thinks fit otherwise to order, be disqualified from receiving any license for a term of two years from the date of such third conviction:

Provided that nothing in this section contained shall prevent the infliction by the court of any pecuniary penalty or any term of imprisonment to which such licensed person would otherwise be liable, or shall preclude the court from exercising any power given by any other section of this Act of disqualifying such licensed person or such premises for a longer period than the term mentioned in this section.

**L.A. 1872,
s. 31.**

Disqualification
of premises.

31. The following additional provisions shall be enacted with respect only to convictions of persons who may hereafter become licensed in respect of premises, and shall not apply to a conviction of any person licensed for any premises at the passing of this Act so long as he is licensed in respect of the same premises; viz.,

- (1.) The second and every subsequent conviction recorded on the license of any one such person shall also be recorded in the register of licenses against the premises : L.A. 1872,
s. 31.
- (2.) When four convictions (whether of the same or of different licensed persons) have within five years been so recorded against premises, those premises shall during one year be disqualified for the purposes of this Act :
- (3.) If the licenses of two such persons licensed in respect of the same premises are forfeited within any period of two years, the premises will be disqualified for one year from the date of the last forfeiture :

Provided that where any premises are disqualified under this section, notice of such disqualification shall be served upon the owner of the premises in like manner as an order of disqualification is required to be served under this Act, and the regulations for the protection of the owner of premises in case of an order for disqualification shall, so far as the same are applicable, extend to the case of disqualification under this section.

44. No license shall be granted under the Intoxicating Liquor Licensing Acts to any person, or in respect of any premises declared by or in pursuance of any of the Intoxicating Liquor Licensing Acts or this Act to be disqualified persons or disqualified premises during the continuance of such disqualification. Any license held by any person so disqualified, or attached to premises so disqualified, shall be void. L.A. 1872,
s. 44.

Disqualifications for licenses.

32. A conviction for any offence under this Act shall not, after five years from the date of such conviction, be receivable in evidence against any person L.A. 1872,
s. 32.

Conviction after five years not to increase penalty.

for the purpose of subjecting him to an increased penalty or to any forfeiture.

**L.A. 1872,
s. 56.**

For protection
of owners of
licensed pre-
mises in cases
of offences
committed by
tenants.

56. Where any tenant of any licensed premises is convicted of an offence against this Act, and such offence is one the repetition of which may render the premises liable to be disqualified from receiving a license for any period, it shall be the duty of the clerk of the licensing justices to serve, in manner provided by this Act, notice of every such conviction on the owner of the premises.

Where any order of a court of summary jurisdiction declaring any licensed premises to be disqualified from receiving a license for any period has been made, the court shall cause such order to be served on the owner of such premises, where the owner is not the occupier, with the addition of a statement that the court will hold a petty sessions at a time and place therein specified, at which the owner may appear and appeal against such order on all or any of the following grounds, but on no other grounds :

- (a.) That notice, as required by this Act, has not been served on the owner of a prior offence which on repetition renders the premises liable to be disqualified from receiving a license at any period ; or
- (b.) That the tenant by whom the offence was committed held under a contract made prior to the commencement of this Act, and that the owner could not legally have evicted the tenant in the interval between the commission of the offence, in respect of which the disqualifying order was made, and the receipt by him of the notice of the immediately preceding offence which on repetition renders the

premises liable to be disqualified from receiving a license at any period ; or L.A. 1872,
s. 56.

- (c.) That the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice, that the owner, notwithstanding he had legal power to evict the tenant, could not, with reasonable diligence, have exercised that power in the interval which occurred between the said notice and the second offence.

If the owner appear at the time and place specified, and at such sessions, or any adjournment thereof, satisfy the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled, and the same shall be void.

70 . . . Provided that any notice of any offence required by this Act to be sent to the owner of licensed premises shall be either served personally or sent by registered letter. L.A. 1872,
s. 70.

S. 30 (1) (2). By virtue of Licensing Act, 1874, s. 13, the words, "which is directed by this Act to be recorded "on his license," mean "which is directed by the justices to "be recorded." The offences which the justices may record on the license are those under ss. 5, 6, 13, 14, 16, 17, 28, Licensing Act, 1872, and ss. 9, 14, Licensing Act, 1874. Where three summonses against a licensed person were heard on the same day, and a conviction was obtained in each case, it was held that all three convictions could not be recorded on the license so as to create a forfeiture under s. 30 (1), (*Fordham v. Penge JJ.*, 60 J.P. 267).

The result of forfeiture is that the license ceases to exist for all purposes, and no application can therefore be successfully made for its transference or renewal, (*R. v. West Riding JJ.*, 21 Q.B.D. 258 ; 52 J.P. 455 ; 57 L.J.M.C. 103 ; 36 W.R. 258).

The mode of proving a previous conviction is the production of a certified extract from the register of licenses

kept by the clerk of the justices who convicted, (42 & 43 Vict. c. 49, s. 22); or from the register of licenses under s. 58, Licensing Act, 1872, p. 62.

S. 31. This section applies only to persons obtaining licenses or certificates after the passing of the Act. It has no reference to persons licensed before that date, so long as they continue to be licensed in respect of the same premises. When the premises are disqualified, notice must be served on the owner as in the case of disqualification under s. 56.

S. 44. The "Intoxicating Liquor Licensing Acts" are the Alehouse Act, 1828, (9 Geo. IV, c. 61), and the Wine and Beerhouse Acts, 1869 and 1870. See s. 74, Licensing Act, 1872. The persons who are permanently disqualified from holding any justices' license or certificate are:—

- (1.) Sheriffs' officers and officers executing the legal process of any court of justice, (9 Geo. IV, c. 61, s. 16.) The disqualification does not apply to licenses under 24 & 25 Vict. c. 21, s. 2.
- (2.) Persons convicted of felony, (33 & 34 Vict. c. 29, s. 14). Persons who had been convicted before the passing of the Act were held to come within the provisions of s. 14, in *R. v. Vine*, L.R. 10 Q.B. 195; 44 L.J.M.C. 60; 31 L.T. 842; 23 W.R. 649; 39 J.P. 213; but see the judgment of Lopes, L.J., in *Bourke v. Nutt, re Pulborough election*, (1894), 1 Q.B., at p. 739. The effect of pardon is to remove the disqualification, (*Hay v. Tower JJ.*, 24 Q.B.D. 561; 59 L.J.M.C. 79; 54 J.P. 500; 60 L.T. 290; 38 W.R. 414).
- (3.) Persons making use of forged certificates, knowing the same to have been forged, (32 & 33 Vict. c. 27, s. 11, p. 108).
- (4.) Persons convicted for the third time of selling liquor without a justices' license or certificate, if the court order them to be disqualified, (Licensing Act, 1872, s. 3 (3), p. 96).
- (5.) Persons convicted of permitting premises to be used as a brothel under Licensing Act, 1872, s. 15, p. 119.

Persons, who are convicted of selling liquor without a justices' license or certificate, may, for the second offence, be disqualified for any term of years not exceeding five, and for a third and subsequent offence for any term of years or for ever, (Licensing Act, 1872, s. 3 (2) (3), p. 96).

See also as to disqualification, s. 30, *supra*.

The following persons are permanently disqualified under Acts other than the Intoxicating Liquor Licensing Acts, viz., persons who have been convicted of selling spirits without a license, from selling beer and cider by retail, (3 & 4 Vict. c. 61, s. 7). A person convicted of selling spirits without a license is not disqualified from holding a publican's license, though his power of selling will be limited to the sale of spirits only, (*R. v. Roper*, 58 J.P. 512; 63 L.J.M.C. 68; 70 L.T. 409). Persons convicted of selling spirits without a license, from selling wine by retail, (23 Vict. c. 27, s. 22; see *R. v. Roper, ubi supra*). Persons, who have been twice convicted of selling exciseable liquor by retail without a justices' license, are permanently disqualified from selling any exciseable liquor by retail, (35 Geo. III, c. 113, s. 1).

As to disqualification of premises, see ss. 3, 30 and 31, Licensing Act, 1872, pp. 96, 134, respectively.

The effect of disqualification is to render the license or certificate void; and, therefore, where a license was granted to a convicted felon, it was held that a transfer of the license could not be obtained by a new tenant under 9 Geo. IV, c. 61, s. 14, (*R. v. Vine, ubi supra*).

An infant may be an heir under s. 3, Licensing Act, 1872, (*Rose v. Frogley*, 57 J.P. 376; 62 L.J.M.C. 181; 69 L.T. 346).

S. 32. The effect of this section is that a convicted person is not rendered liable to an increased penalty or forfeiture after the lapse of five years from the date of the previous conviction.

The offences to which this section applies are as follows:—Failure to affix notice outside licensed premises, under Licensing Act, 1872, s. 11, p. 63, as amended by Licensing Act, 1874, s. 28; see also Licensing Act, 1872, s. 49, p. 33, and Licensing Act, 1874, s. 7, p. 34. Failure to sell liquor by standard measure, under Licensing Act, 1872, s. 8, p. 105. Permitting drunkenness, etc., under Licensing Act, 1872, s. 13, p. 111. Keeping a disorderly house, under Licensing Act, 1872, s. 14, p. 119. Permitting gaming, under Licensing Act, 1872, s. 17, p. 124. Harboursing constable, under Licensing Act, 1872, s. 16, p. 123. Selling spirits and liquor to children, under Licensing Act, 1872, s. 7, p. 107, and 49 & 50 Vict. c. 56, s. 1. Selling after closing hours, under Licensing Act, 1874, s. 9, p. 83. Evading the law as to drinking on premises by holder of off-license, under Licensing Act, 1872, s. 6, p. 103. Allowing the purchaser to drink

on premises having an off-license only, under Licensing Act, 1872, s. 5, p. 102. The unauthorised possession of liquor under Licensing Act, 1872, s. 10, p. 106, and permitting the sale of liquor on unlicensed premises by the occupier under Licensing Act, 1872, s. 4, p. 97.

S. 56. The convictions for offences of which notice is to be given to the owner by virtue of this section are those under the sections enumerated in the notes to s. 30, *supra*. Notice must also be given to the owner under the circumstances set out in s. 31 (1) (2), *supra*; and in the case of an order for disqualification of premises made by a court of summary jurisdiction under 34 & 35 Vict. c. 112, s. 10.

Notice must be served by the clerk to the licensing justices on the owner personally, or by registered letter, at an address supplied to the clerk by the owner, (Licensing Act, 1872, s. 70, *supra*). The register of licenses required to be kept by s. 36, *ibid*, contains the names of owners of premises, in respect of which licenses have been granted, (*see* p. 60).

Under certain circumstances the owner may apply for authority to carry on the business on the same premises, when the tenant has been convicted for the first time, (Licensing Act, 1874, s. 15, *infra*).

By Licensing Act, 1874, s. 14, a conviction under the Sale of Food and Drugs Act, 1875, has the same effect as a conviction under the Licensing Acts, 1872 and 1874; *see* s. 55 of the former Act. For the definition of "owner," *see* Licensing Act, 1872, s. 74. *See also* Licensing Act, 1874, s. 29, p. 62.

The owner is not a "person aggrieved" within s. 52, Licensing Act, 1872, and has, therefore, no right of appeal against the conviction of his tenant, (*R. v. Andover JJ.*, 16 Q.B.D. 711; 50 J.P. 549; 55 L.J.M.C. 143; 55 L.T. 33; 34 W.R. 456).

TEMPORARY AUTHORITY ON DISQUALIFICATION OR FORFEITURE.

L.A. 1874,
s. 15.

Temporary
continuance
of licenses
forfeited
for single
offences.

15. Where any licensed person is convicted for the first time of any one of the following offences:—

1. Making an internal communication between his licensed premises and any unlicensed premises;
2. Forging a certificate under the Wine and Beer-house Acts, 1869 and 1870;

3. Selling spirits without a spirit license ;

L.A. 1874,
s. 15.

4. Any felony ;

and in consequence either becomes personally disqualified or has his license forfeited, there may be made by or on behalf of the owner of the premises an application to a court of summary jurisdiction for authority to carry on the same business on the same premises until the next special sessions for licensing purposes, and a further application to such next special sessions for the grant of a license in respect of such premises, and for this purpose the provisions contained in the Intoxicating Liquor Licensing Act, 1828, with respect to the grant of a temporary authority and to the grant of licenses at special sessions shall apply as if the person convicted had been rendered incapable of keeping an inn, and the person applying for such grant was his assignee.

53. Where the justices refuse to renew a license, and an appeal against such refusal is duly made, and such license expires before the appeal is determined, the Commissioners of Inland Revenue may, by order, permit the person whose license is refused to carry on his business during the pendency of the appeal upon such conditions as they think just; and, subject to such conditions, any person so permitted may, during the continuance of such order, carry on his business in the same manner as if the renewal of the license had not been refused.

L.A. 1872,
s. 53.

Continuance of
license during
pendency of
appeal against
justices' refusal
to renew.

Where a license is forfeited on or in pursuance of a conviction for an offence, and an appeal is duly made against such conviction, the court by whom the conviction was made, may, by order, grant a temporary license to be in force during the pendency of the appeal upon such conditions as they think just.

S. 15. The sections which relate to the four offences above-mentioned are, as to 1, s. 9, Licensing Act, 1872; as to 2, s. 11, 32 & 33 Vict. c. 27; as to 3, s. 3, Licensing Act, 1872; and as to 4, s. 7, 3 & 4 Vict. c. 61; s. 22, 23 Vict. c. 27 and s. 14, 33 & 34 Vict. c. 29. Although there is no doubt that s. 11, 32 & 33 Vict. c. 27, is the section indicated in 2, that section imposes no disqualification or forfeiture upon a person forging a certificate, but only upon a person making use of a forged certificate knowing it to have been forged; it is probable therefore that this part of the section is of no effect. The section contains a second error in attributing the power of granting a temporary authority to the Alehouse Act, 1828, instead of to 5 & 6 Vict. c. 44.

Application cannot be made under 9 Geo. IV, c. 61, s. 14, for a renewal of the license; a new license must be applied for at the next special sessions and not afterwards, (*Stevens v. Green, or Sharnbrook, or Bedfordshire JJ.*, 23 Q.B.D. 143; 53 J.P. 423; 58 L.J.M.C. 167; 61 L.T. 240; 37 W.R. 605).

The justices have an absolute discretion as to the grant or refusal to the owner of an authority to carry on the business until the next special sessions, and the applicant is not entitled to notice of objections under Licensing Act, 1872, s. 42, (*R. v. Moore or Hertfordshire JJ.*, 7 Q.B.D. 542; 45 J.P. 768; 40 L.J.M.C. 121).

The appeal clauses of 9 Geo. IV, c. 61, are incorporated in s. 15, *supra*, and therefore the owner applying under that section has a right of appeal against the refusal to grant a license, (*R. v. West Riding JJ.*, 11 Q.B.D. 417; 48 J.P. 149; 52 L.J.M.C. 99).

S. 53. It seems to be clear that the word "renew" does not possess the restricted meaning in which it is used in Licensing Act, ss. 42 & 74, but means a continuance of a license on the same premises in respect of which, but not necessarily to the same person to whom, it was originally granted; see the distinction in the judgment of Brett, M.R., in *R. v. Liverpool JJ.*, 11 Q.B.D., at p. 645. In this construction of the word "renew," the section will include cases of transfer as well as of renewal.

"Appeal" must be taken to include the remedy by way of special case under 12 & 13 Vict. c. 45, s. 11; and by case stated by quarter sessions, see notes to 9 Geo. IV, c. 61, s. 27, p. 77.

CLOSING PREMISES IN CASE OF RIOT.

23. Any two justices of the peace acting for any county or place where any riot or tumult happens or is expected to happen may order every licensed person in or near the place where such riot or tumult happens or is expected to happen to close his premises during any time which the justices may order; and any person who keeps open his premises for the sale of intoxicating liquors during any time at which the justices have ordered them to be closed shall be liable to a penalty not exceeding fifty pounds; and it shall be lawful for any person acting by order of any justices to use such force as may be necessary for the purpose of closing such premises.

**L.A. 1872,
s. 23.**

Power of justices to close licensed premises in case of riot.

S. 23. This section applies to all houses in respect of which a justices' license is necessary, (Licensing Act, 1872, s. 74). *See* definition of "licensed person" and "license," and *see* Licensing Act, 1874, s. 12, as to mitigation of penalties, p. 153.

ENTRY BY CONSTABLE AND SEARCH WARRANT FOR
DETECTION OF LIQUORS.

16. Any constable may, for the purpose of preventing or detecting the violation of any of the provisions of the principal Act or this Act which it is his duty to enforce, at all times enter on any licensed premises, or any premises in respect of which an occasional license is in force.

**L.A. 1874,
s. 16.**

Constable to enter on premises for enforcement of Act.

Every person who, by himself, or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit any constable in the execution of his duty demanding to enter in pursuance of this section, shall be liable to a penalty not exceeding for the first offence five pounds, and not exceeding for the second and every subsequent offence ten pounds.

L.A. 1874,
s. 17.

Search warrant
for detection of
liquors sold or
kept contrary
to law.

17. Any justice of the peace, if satisfied by information on oath that there is reasonable ground to believe that any intoxicating liquor is sold by retail or exposed or kept for sale by retail at any place within his jurisdiction, whether a building or not, in which such liquor is not authorised to be sold by retail, may in his discretion grant a warrant under his hand, by virtue whereof it shall be lawful for any constable named in such warrant, at any time or times within one month from the date thereof, to enter, and, if need be by force, the place named in the warrant, and every part thereof, and examine the same and search for intoxicating liquor therein, and seize and remove any intoxicating liquor found therein which there is reasonable ground to suppose is in such place for the purpose of unlawful sale at that or any other place, and the vessels containing such liquor; and in the event of the owner or occupier of such premises being convicted of selling by retail or exposing or keeping for sale by retail any liquor which he is not authorised to sell by retail, the intoxicating liquor so seized and the vessels containing such liquor shall be forfeited.

When a constable has entered any premises in pursuance of any such warrant as is mentioned in this section, and has seized and removed such liquor as aforesaid, any person found at the time on the premises shall, until the contrary is proved, be deemed to have been on such premises for the purpose of illegally dealing in intoxicating liquor, and be liable to a penalty not exceeding forty shillings.

Any constable may demand the name and address of any person found on any premises on which he seizes or from which he removes any such liquor as aforesaid, and if he has reasonable ground to suppose that the name or address given is false may examine such person further as to the correctness of such name

and address, and may, if such person fail upon such demand to give his name or address, or to answer satisfactorily the questions put to him by the constable, apprehend him without warrant and carry him as soon as practicable before a justice of the peace.

L.A. 1874,
s. 17.

Any person required by a constable under this section to give his name and address, who fails to give the same or gives a false name or address, or gives false information with respect to such name and address, shall be liable to a penalty not exceeding five pounds.

S. 16. A constable cannot exercise his powers under this section unless he has reasonable ground for suspecting that circumstances exist, or are about to exist, constituting a violation of some provisions of the Acts, (*Duncan v. Dowding*, (1897), 1 Q.B. 575; 61 J.P. 280; 66 L.J.Q.B. 362; 76 L.T. 294; 45 W.R. 383), but *cf. R. v. Dobbin*, 48 J.P. 182, where a constable paid a round of visits to all the licensed premises, and the justices found that he sought to enter the house for the purpose of preventing or detecting any violation of the provisions of the Acts. The Court held that, although the constable did not suspect any actual commission of an offence, he was nevertheless justified in entering the premises.

A constable's right of entry under s. 16, is limited to premises licensed by justices, (*see* definition of licensed premises, Licensing Act, 1872, s. 74). He has, therefore, no right to enter the premises of a spirit dealer having a retail off-license to sell spirits under 24 & 25 Vict. c. 21, s. 2, such dealer being exempted by Licensing Act, 1872, s. 73, from the necessity of obtaining a justices' license, (*Harrison v. MacI' Meel*, 48 J.P. 469; 50 L.T. 210).

Where a constable, having paid a visit to licensed premises and returning on hearing a noise there, was refused admittance by the defendant's wife until he had heard "her opinion of him," and having heard it, was allowed to enter, the Court held the defendant's conviction was wrong, on the ground that there was no evidence that the defendant or a manager of his had refused admission, (*Caswell v. Hundred House JJ.*, 54 J.P. 87).

As to the right of constables to visit licensed refreshment-houses, *see* 23 Vict. c. 27, s. 18, and as to entry by officers

of excise, *see* s. 24, *ibid.* *See* also 48 & 49 Vict. c. 75, s. 2, as to resisting or wilfully obstructing constables in the execution of their duties.

S. 17. The conviction of the owner or occupier for selling by retail or exposing or keeping for sale by retail, liquor which he is not authorised to sell by retail, takes place under s. 3, Licensing Act, 1872, p. 96, and the liquor and vessels may be sold under s. 51, *ibid.*, p. 147, but before the justices order liquor to be sold, a summons to show cause ought to be served on the owner in order that he may have an opportunity of explanation, (*Gill v. Bright*, 36 J.P. 168; 41 L.J.M.C. 22; 25 L.T. 591; 20 W.R. 248).

Under the second paragraph of the section, the buyer is equally liable with the seller, as the words "illegally dealing" include both buying and selling, (*Mackenzie v. Day*, (1893), 1 Q.B. 289; 57 J.P. 216; 62 L.J.M.C. 49; 68 L.T. 345; 41 W.R. 384). *See* s. 10, Licensing Act, 1872, p. 106, as to illicit storing of liquor.

SUMMARY PROCEEDINGS.

L.A. 1872,
s. 51.

Summary proceedings for offences under this Act, &c.

51. Except as in this Act otherwise expressly provided, every offence under this Act may be prosecuted, and every penalty and forfeiture may be recovered and enforced, in manner provided by the Summary Jurisdiction Act, 1848, subject to the following provisions:

- (1.) The court of summary jurisdiction, when hearing and determining an information or complaint, other than in a case where the offence charged is that of being found drunk in any highway or other public place, or any licensed premises, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of a stipendiary magistrate, or some other officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting alone or with others at some

court or other place appointed for the administration of justice : L.A. 1872,
s. 51.

- (2.) (Repealed by 47 & 48 Vict. c. 43. sched.).
- (3.) (Repealed by 47 & 48 Vict. c. 43, sched.).
- (4.) (Partly repealed by 47 & 48 Vict. c. 43, sched.). In all cases of summary proceedings under this Act, the defendant and his wife shall be competent to give evidence.
- (5.) All forfeitures shall be sold or otherwise disposed of in such manner as the court may direct, and the proceeds of such sale or disposal (if any) shall be applied in the like manner as penalties, but the court may direct that such proceeds may be applied in the first instance in paying the expenses of and incidental to any search and seizure which resulted in such forfeiture :
- (6.) Penalties and forfeitures under this Act shall not for the purpose of any Act respecting the application of such penalties, or the costs, charges, and expenses attending any proceedings for recovery of such penalties or of forfeitures, be deemed to be penalties or forfeitures under any Act relating to the Inland Revenue.

Any officer appointed by the Commissioners of Inland Revenue may sue for any penalties under this Act, and when so sued for, any penalties which may be recovered, shall be applied in the manner in which excise penalties are for the time being applicable by law.

Where under this Act any sum for costs (other than costs upon a conviction or order of dismissal of an information) or for compensation, or both, is ordered or awarded to be paid by any person, the amount thereof

shall be recovered in manner directed by the Summary Jurisdiction Act, 1848, for the recovery of costs awarded upon the dismissal of an information or complaint.

L.A. 1872,
s. 66.

66. Any part not exceeding a moiety of any penalty recovered under this Act may, if the court shall so direct, be paid to the superannuation fund of the police establishment within whose jurisdiction the offence in respect of which such penalties are imposed shall have occurred.

L.A. 1872,
s. 54.

Conviction, &c.,
not to be
quashed for
want of form,
or removed by
certiorari.

54. No conviction or order made in pursuance of this Act, originally or on appeal, relative to any offence, penalty, forfeiture, or summary order, shall be quashed for want of form, or, if made by a court of summary jurisdiction, be removed by *certiorari* or otherwise, either at the instance of the Crown, or of any private party into any superior court.

S. 51. The offences, excepted by sub-sect. (1), are dealt with by s. 12, Licensing Act, 1872, p. 111. As to the disqualification of justices, *see* s. 60, Licensing Act, 1872, p. 18.

“Summary Jurisdiction Act” means 11 & 12 Vict. c. 43, and “The Summary Jurisdiction (England) Acts” means 11 & 12 Vict. c. 43; 42 & 43 Vict. c. 49; 47 & 48 Vict. c. 43, and any Acts amending them, (52 & 53 Vict. c. 63, s. 13 (6) (10)). As to the meaning of “court of summary jurisdiction,” *see* s. 13 (11), *ibid*.

It will be observed that sub-s. 4 applies only to the case where the husband is defendant. As to the husband's ability to give evidence when his wife is the defendant, *see Seager v. White*, 48 J.P. 436; 51 L.T. 261.

As to proceedings under the Summary Jurisdiction Acts, *see* 42 & 43 Vict. c. 49, s. 39.

As to mitigation of penalties, *see* s. 4, *ibid*, and Licensing Act, 1874, s. 12, p. 153.

As to scale of imprisonment for non-payment of money, *see* 42 & 43 Vict. c. 49, s. 5, and as to payments by instalments of or security taken for payment of money, s. 7, *ibid*.

As to costs in the case of small fines, *see* s. 8, *ibid.*

As to power of court to discharge accused without punishment, *see* s. 16, *ibid.*

See s. 17, *ibid.*, as to right to claim trial by jury.

As to awarding costs of conviction or dismissal, *see* 11 & 12 Vict. c. 43, s. 18.

As to issue of warrant of distress and commitment, *see* ss. 19, 20, 21 and 22, 11 & 12 Vict. c. 43, and 21 & 22 Vict. c. 73, s. 5, and as to mitigation thereof, *see* s. 21 of 42 & 43 Vict. c. 49; *see* also s. 39 (3) (4) and s. 43, *ibid.*

S. 5, 47 & 48 Vict. c. 43, as to the recovery of penalties enacts that "where by virtue of the repeal enacted by this Act or otherwise any statute authorising the infliction by any justice or justices of a penalty or fine, either as a sole punishment or as an alternative punishment for imprisonment, provides no method for the recovery of such penalty or fine, sections 19 and 21 of the Summary Jurisdiction Act, 1848, as amended by section 21 of the Summary Jurisdiction Act, 1879, shall apply to the recovery of such penalty or fine."

The method of recovering penalties was prescribed by s. 51 (2) of Licensing Act, 1872, which was repealed by the schedule to 47 & 48 Vict. c. 43, and the sections mentioned in s. 5 above set out, therefore prescribe the manner in which penalties are to be recovered.

As to register of court of summary jurisdiction, *see* s. 22, 42 & 43 Vict. c. 49.

As to proof by declaration of service of process, handwriting, &c., *see* s. 41, *ibid.*

S. 66. As to the manner of applying penalties, *see* s. 51, *supra*, and 11 & 12 Vict. c. 43, s. 31. In the latter section the word "borough" means a borough which has a court of quarter sessions, (*Mayor of Reigate v. Hart*, L.R. 3 Q.B. 244; 37 L.J.M.C. 70; 18 L.T. 237; 16 W.R. 896; 32 J.P. 342; *Winn v. Mossman*, L.R. 4 Ex. 292; 33 J.P. 743; 38 L.J. Ex. 200; 20 L.T. 672; 17 W.R. 924; *see* also 45 & 46 Vict. c. 50, s. 221, and 53 & 54 Vict. c. 45, s. 16 (1) (c) and (2) (k)).

S. 54. The justices may remedy a defect in the drawing up of the conviction any time before filing it with the clerk of the peace, (*Ex parte Kenyon*, 45 J.P. 303), but not afterwards, (*Ex parte Austin*, 45 J.P. 302).

The remedy by way of *certiorari* is not taken away by the above section in cases where there is no jurisdiction to

convict, (*Colonial Bank of Australasia v. Willan*, L.R. 5 P.C. 417; 43 L.J.M.C. 39; 30 L.T. 237; 22 W.R. 516; *Ex parte Bradlaugh*, 3 Q.B.D. 509), or where the conviction has been obtained by fraud, (*R. v. Gillyard*, 12 Q.B. 527).

See as to amendment of orders or judgments containing omissions or mistakes, 12 & 13 Vict. c. 45, s. 7.

APPEALS FROM ORDERS OR CONVICTIONS.

**L.A. 1872,
s. 52.**

Appeal to
quarter
sessions.

52. If any person feels aggrieved by any order or conviction made by a court of summary jurisdiction, the person so aggrieved may appeal therefrom, subject to the conditions and regulations following :

(1.) The appeal shall be made to the next court of quarter sessions.

S. 52. The owner of premises is not a "person aggrieved" within this section and therefore has no right of appeal against the conviction of his tenant, (*R. v. Andover JJ.*, 16 Q.B.D. 711; 50 J.P. 549; 55 L.J.M.C. 143; 34 W.R. 456; 55 L.T. 33).

See 9 Geo. IV, c. 61, s. 27, and notes, p. 72 *et seq.*, as to appeal from the refusal of justices to renew or transfer licenses.

The latter part of s. 52 was repealed by the schedule to 47 & 48 Vict. c. 43, and the procedure as to appeals against summary convictions and orders under the Licensing Acts are now governed by the following Summary Jurisdiction Acts, 42 & 43 Vict. c. 49; 47 & 48 Vict. c. 43; and the Interpretation Act, 52 & 53 Vict. c. 63, s. 13 (11). *See* 42 & 43 Vict. c. 49, s. 31.

As to service by post, *see* 52 & 53 Vict. c. 63, s. 26.

The expression "next sessions" will not be construed so as to prevent the appellant having a fair and reasonable time to make up his mind whether he shall appeal or not, (*R. v. Surrey JJ.*, 6 Q.B.D. 100; 45 J.P. 93; 50 L.J.M.C. 10; 43 L.T. 500; 29 W.R. 260).

The appeal in the case of orders or convictions under the Licensing Acts in boroughs, lies to the recorder sitting at quarter sessions. In the case of a refusal to renew or transfer a license, appeal lies to the quarter sessions of the county and not of the borough.

Notice of appeal must be given within seven days from the date of the decision under s. 31 (2) of 42 & 43 Vict. c. 49, (*R. v. West Riding JJ.*, 64 L.J.M.C. 192). And see p. 75, as to the computation of time. As to recognisances, see 42 & 43 Vict. c. 49, s. 31 (3), *R. v. Cheshire JJ.*, 60 J.P. 585. L.A. 1872,
s. 52.

The notice of appeal which has to be served on the clerk of the court of summary jurisdiction under s. 31 (2) of 42 & 43 Vict. c. 49, need not be addressed to the justices, (*R. v. Essex JJ.*, (1892), 1 Q.B. 490; 56 J.P. 375; 66 L.T. 676; 61 L.J.M.C. 120; 40 W.R. 446).

The High Court will not interfere with the decision of justices as to the sufficiency of the notice, (*R. v. Lancashire JJ.*, 41 J.P. 293).

Although it is competent to the court of quarter sessions to make rules of practice, a rule of sessions which amounts to the imposition of an additional condition to appeals, not imposed by statute, will not be allowed, (*R. v. Pawlett*, L.R. 8 Q.B. 491; 37 J.P. 775; 29 L.T. 390).

A special case may be stated for the opinion of the High Court under 42 & 43 Vict. c. 49, s. 33. Application must be made to the court of summary jurisdiction in writing, and a copy of the application must be left with the clerk of the court within seven days from the date of the proceeding to be questioned, in accordance with R. 18 of the Summary Jurisdiction Rules, 1886, (*South Staffordshire Waterworks Company v. Stone*, 19 Q.B.D. 168; 51 J.P. 662; 56 L.J.M.C. 122; 57 L.T. 386; 36 W.R. 76, which was followed in *Lockhart v. St. Albans*, 21 Q.B.D. 188; 52 J.P. 800; 57 L.J.M.C. 118; 36 W.R. 420). Application in writing must be made to all the justices who decided the case which is required to be stated, (*Westmore v. Paine*, (1891), 1 Q.B. 482; 55 J.P. 440; 64 L.T. 55; 60 L.J.M.C. 89; 39 W.R. 463; 17 Cox C.C. 244; 7 T.L.R. 214).

The Act of 20 & 21 Vict. c. 43, applies, so far as it is applicable, to a special case stated under 42 & 43 Vict. c. 49, s. 33 (2), see this sub-s.

Before transmitting the case to the court the appellant must give to the respondent notice in writing of the appeal accompanied by a copy of the case as provided by 20 & 21 Vict. c. 43, s. 2, (*Edwards v. Roberts*, (1891), 1 Q.B. 302; 55 J.P. 439; 60 L.J.M.C. 6).

Where the justices decide that they have no jurisdiction to hear the case, the proper course was held to be an

L.A. 1872, application for a case to be stated under 20 & 21 Vict. c. 43, s. 52. instead of an application for *mandamus*, on the ground that the justices had necessarily heard the case before they determined that they had no jurisdiction, (*Muir v. Hore*, 41 J.P. 471 ; 47 L.J.M.C. 17 ; 37 L.T. 315).

The applicant, in demanding a case, is not bound to state that he is dissatisfied in point of law. It is enough if the facts show that a point of law is involved, (*R. v. Newton*, 43 J.P. 351, and see *Ex parte Markham*, 34 J.P. 150). The appellant is not limited to points of law taken before the justices, provided they arise from the facts stated, (*Knight v. Halliwell*, L.R. 9 Q.B. 412 ; 38 J.P. 470 ; 43 L.J.M.C. 113 ; 30 L.T. 359 ; 22 W.R. 689).

As to recognizances, see *Stanhope v. Thorsby*, L.R. 1 C.P. 423 ; 30 J.P. 342 ; 35 L.J.M.C. 182 ; 14 L.T. 332 ; 14 W.R. 651.

By s. 14, 20 & 21 Vict. c. 43, the application for the statement of a case does away with the right of appeal to quarter sessions.

Where a *rule nisi* for *certiorari* was obtained while the statement of the case was pending, the court declined to make it absolute, (*Palmer v. Thatcher*, 3 Q.B.D. 346 ; 42 J.P. 213 ; 47 L.J.M.C. 54 ; 37 L.T. 786 ; 26 W.R. 314).

S. 40, 42 & 43 Vict. c. 49, renders a writ of *certiorari* unnecessary where a special case has been stated.

The provisions of 20 & 21 Vict. c. 43, s. 2, as to transmitting the case to the Crown Office are conditions precedent to the hearing of the case, except under such circumstances as render their observance impossible, (*Morgan v. Edwards*, 24 J.P. 245 ; 29 L.J.M.C. 108 ; 5 H. & N. 415 ; *Banks v. Goodwin*, 3 B. & S. 548 ; 32 L.J.M.C. 87 ; 7 L.T. 740 ; 11 W.R. 309 ; 27 J.P. 404 ; *Woodhouse v. Woods*, 29 L.J.M.C. 149 ; *Mayer v. Harding*, L.R. 2 Q.B. 410 ; 9 B. & S. 27 ; 31 J.P. 376 ; 16 L.T. 429 ; 15 W.R. 813 ; *Edwards v. Roberts*, *ubi supra*).

If the conditions are not complied with and there is consequently no jurisdiction to hear the case, it may be struck out of the paper with costs against the appellant, (*Great Northern Railway Co. v. Inett*, 2 Q.B.D. 284 ; and see note (3) at p. 285 ; 46 L.J.M.C. 237 ; 41 J.P. 294 ; 25 W.R. 584). The case of *Peacock v. R.*, 4 C.B. (N.S.) 264 ; 22 J.P. 403 ; 27 L.J.M.C. 224 ; 31 L.T. 101, was not followed as regards the question of costs. See also *Crowther v. Boulton*, 13 Q.B.D. 680 ; 49 J.P. 135 ; 33 W.R. 150.

MITIGATION OF PENALTIES.

12. Where any person holding a license under this or the principal Act is convicted of any offence against this or the principal Act, or against any of the Acts recited or mentioned therein, the Court may not, except in the case of a first offence, reduce the penalty to less than twenty shillings, nor shall the penalty, whether of excise or police, be reduced in any case to less than the minimum authorised by any other Act.

L.A. 1874,
s. 12.

Mitigation of
penalties.

This section repeals s. 67, Licensing Act, 1872.

Power is given to the Commissioners of Inland Revenue to mitigate fines or penalties incurred under the Acts relating to Inland Revenue, and to mitigate or remit such fines or penalties after judgment, (53 & 54 Vict. c. 21, s. 35 (1)).

The Treasury may mitigate or remit any such fines or penalties either before or after judgment, *ibid*, sub-s. (2). See also 42 & 43 Vict. c. 49, ss. 4 & 53.

Under 20 Vict. c. 43, s. 6, the High Court has no power to reduce a penalty on a case stated by justices, (*Evans v. Hemingway*, 52 J.P. 134).

SAVING FOR INDICTMENTS, ETC., UNDER OTHER ACTS.

59. Nothing in this Act shall prevent any person from being liable to be indicted or punished under any other Act, or otherwise, so that he be not punished twice for the same offence.

L.A. 1872,
s. 59.

S. 17, Licensing Act, 1872, affords an example of an alternative remedy under 16 & 17 Vict. c. 119, s. 3. See *Sims v. Pay*, 53 J.P. 420; 58 L.J.M.C. 39; 60 L.T. 602. See also 52 & 53 Vict. c. 63, s. 33.

CONVICTION FOR MORE THAN ONE OFFENCE
ON THE SAME DAY.

57. Where a licensed person is convicted of more offences than one committed on the same day, the convictions for which are by this Act directed to be

L.A. 1872,
s. 57.

As to conviction of licensed persons of more than one offence on same day.

recorded on his license, the Court by whom he is convicted may, in their discretion, order that one or some only of such convictions shall be so recorded.

This section appears to be unnecessary now that the power of justices as to recording convictions on licenses is discretionary under s. 13, Licensing Act, 1874.

The offences which the justices have power to order to be recorded or indorsed on the license are contained in ss. 5, 6, 13, 14, 16, 17, & 28, Licensing Act, 1872; ss. 9, 14, Licensing Act, 1874.

Where three convictions took place in respect of three summonses heard on the same day, it was decided that the three convictions could not be recorded on the license so as to create a forfeiture under s. 30 (1), Licensing Act, 1872, (*Fordham v. Penge JJ.*, 60 J.P. 267, *see* p. 137).

SAVING CLAUSES.

**L.A. 1872,
s. 72.**

Saving of
certain privi-
leges, rights,
&c.

72. Nothing in this Act shall affect or apply to—

- (1.) The privileges at the date of the passing of this Act enjoyed by any University in England, or the respective chancellors or scholars of the same, or their successors :
- (2.) The privileges at the date of the passing of this Act enjoyed by the mayor or burgesses of the borough of St. Albans, in the county of Hertford, or their successors, or the exemption from the obligation to take out a license as defined by this Act, or a license from the Commissioners of Inland Revenue enjoyed by the company of the master, wardens, and commonalty of vintners of the city of London :
- (3.) The sale of spruce or black beer :
- (4.) The sale of intoxicating liquor by proprietors of theatres in pursuance of the Acts in that behalf :

- (5.) The sale of intoxicating liquor in packet boats, **L.A. 1872,**
in pursuance of the Acts in that behalf: **s. 72.**
- (6.) The sale of intoxicating liquor on special occasions in pursuance of the provisions in that behalf enacted :
- (7.) The sale of spirits in canteens, in pursuance of any Act regulating the same :
- (8.) The sale of medicated or methylated spirits, or spirits made up in medicine and sold by medical practitioners or chemists and druggists :
- (9.) The sale of intoxicating liquor by wholesale :
- (10.) Any penalties recoverable by or on behalf of the Commissioners of Inland Revenue, or any laws relating to the excise.

73. A license as defined by this Act shall not be required for— **L.A. 1872,**
s. 73.

- (1.) The sale of wine by retail, not to be consumed on the premises, by a wine merchant in pursuance of a wine dealer's license granted by the Commissioners of Inland Revenue ; or License as defined by this Act not required for certain retail sales.
- (2.) The sale of liqueurs or spirits by retail, not to be consumed on the premises, by a wholesale spirit dealer whose premises are exclusively used for the sale of intoxicating liquors, in pursuance of a retail license granted by the Commissioners of Inland Revenue, under the provisions of the twenty-fourth and twenty-fifth of Her present Majesty, chapter twenty-one, intituled "An Act for granting to Her Majesty certain duties of excise and stamps."

20. Nothing in this Act contained shall be deemed to affect— **32 & 33**
Vict. c. 27,
s. 20.

- (1.) The privileges heretofore enjoyed by any university in England, or the chancellor, masters, and scholars of the same, or their successors : Nothing to affect privileges and rights herein named.

32 & 33
Vict. c. 27,
s. 20.

- (2.) The privileges heretofore enjoyed by the masters, wardens, freemen, and commonalty of the vintners of the city of London, except as to those freemen of the said vintners who have obtained their freedom by redemption only :
- (3.) The privileges heretofore enjoyed by the mayor or burgesses of the city of St. Albans in the county of Hertford, or their successors :
- (4.) The right of any person who is duly authorised by justices of the peace to keep a common inn, alehouse, or victualling house to take out any excise license :
- (5.) The grant of any occasional license, or the power of any person duly authorised by the excise to sell beer, spirits or wine at any fair or public races.

9 Geo. IV,
c. 61, s. 8.

Powers hereby
given to the
justices of the
county not to
extend to the
cinque ports.

8. Provided always that nothing herein contained shall extend to give the justices of the county, or any division thereof, any power or authority for the putting of the provisions of this Act in execution within any of the cinque ports or either of the two ancient towns, or any of the corporate or other members or liberties of the cinque ports or two ancient towns; but that it shall be lawful for the justices of and for each of the principal cinque ports and two ancient towns, and not as hereinbefore disqualified from acting, and none other, to act within and for the same, and the liberties thereof, not corporate, respectively, as they have been accustomed, and for them or any of them (not so as last aforesaid disqualified,) to act within each of the corporate members immediately belonging or subordinate to such principal cinque port or ancient town, with the justice or justices of each such corporate member, (not so as last aforesaid disqualified,) for the purpose of granting or transferring licenses under, or of hearing

complaints as to offences against, this Act, in all such cases in which the justices of the county are hereinbefore empowered or authorised to act with the justice or justices of any liberty, county of a city, county of a town, city, or town corporate.

9 Geo. IV,
c. 61, s. 8.

36. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the universities of Oxford or Cambridge, or the powers of the chancellors or vice-chancellors of the same, as by law possessed under the respective charters of the said universities, or otherwise; or the master, wardens, freemen, and commonalty of the vintners of the city of London, but not to extend to those freemen of the said Company of Vintners who have obtained the same by redemption only; nor to alter the time of granting licenses for keeping inns in the city of London: Provided also, that nothing in this Act contained shall alter any law relating to the revenue of excise, except so far as the same is hereby expressly altered and otherwise provided for; nor to prohibit any person from selling beer in booths or other places at the time and within the limits of the ground or place in or upon which is holden any lawful fair, in like manner as such person was authorised to do before the passing of this Act.

9 Geo. IV,
c. 61, s. 36.

Act not to affect the two universities; nor to alter time of licensing in London;

nor any law of excise; nor to prohibit the sale of beer at fairs in certain cases.

S. 72, 1. See 9 Geo. IV, c. 61, s. 36; 5 & 6 Vict. c. 44, s. 6; 1 Will. IV, c. 64, s. 29; 3 & 4 Vict. c. 61, s. 22; 23 Vict. c. 27, s. 45; 32 & 33 Vict. c. 27, s. 20; and *R. v. Archdall*, 8 A. & E. 281; 3 N. & P. 696.

2. See 23 Vict. c. 27, s. 45; 32 & 33 Vict. c. 27, s. 20, as to the privileges relating to St. Albans. As to the Vintners of London, see *Vaugh.* 330, 359; *Levinz*, 217, 221; 9 Geo. IV, c. 61, s. 36; 1 Will. IV, c. 64, s. 29; 3 and 4 Vict. c. 61, s. 22; 32 & 33 Vict. c. 27, s. 20; 2 & 3 Vict. c. 47, s. 45; 2 & 3 Vict. c. 14, s. 29. See also *Wells v. Attenborough*, 24 L.T. 312; 19 W.R. 465.

3. See 44 Vict. c. 12, s. 3; 52 Vict. c. 7, s. 3.

4. This sub-section does not exempt the proprietor of a theatre, holding an excise license for the sale by retail of intoxicating liquors in his theatre, from the provisions in ss. 3, 9, Licensing Act, 1874, pp. 79, 83, with respect to closing, but exempts him merely from the necessity of obtaining a justices' license or certificate, (*Gallagher v. Rudd*, (1898), 1 Q.B. 114; 61 J.P. 789; 67 L.J.Q.B. 65; 46 W.R. 108).

5. See 9 Geo. IV, c. 47; 4 & 5 Will. IV, c. 75; 5 & 6 Vict. c. 44, s. 5; 43 & 44 Vict. c. 20, s. 45.

6. See s. 29, Licensing Act, 1872, and 25 & 26 Vict. c. 22, s. 13; 26 & 27 Vict. c. 33, s. 20; 27 & 28 Vict. c. 18, s. 5, and Licensing Act, 1874, ss. 18-20.

7. See 44 & 45 Vict. c. 58, s. 174.

8. See 18 & 19 Vict. c. 38, s. 3; 24 & 25 Vict. c. 91, ss. 1 & 2; 30 & 31 Vict. c. 90, s. 18; 43 & 44 Vict. c. 24; 53 Vict. c. 8, s. 31; and as to spirits made up in medicine, see 16 Geo. II, c. 8, s. 12.

9. See 43 & 44 Vict. c. 20 & 24; 1 Will. IV, c. 51, s. 22; 6 Geo. IV, c. 81; 48 & 49 Vict. c. 51; 53 & 54 Vict. c. 51; and see *R. v. Jenkins*, 55 J.P. 824; 61 L.J.M.C. 57; 65 L.T. 857; 40 W.R. 318.

10. See *Re Authers*, 22 Q.B.D. 345; 58 L.J.M.C. 62; 53 J.P. 116; 37 W.R. 320; 60 L.T. 454.

S. 73, 1. A person who possesses a wine dealer's license is none the less a wine merchant because he keeps a grocer's shop, (*Palmer v. Thatcher*, 3 Q.B.D. 346; 42 J.P. 213; 47 L.J.M.C. 54; 26 W.R. 314; 37 L.T. 784).

As to the meaning of "wine merchant," see *Josselyn v. Parsons*, L.R. 7 Ex. 127; 36 J.P. 455; 41 L.J. Ex. 60; 25 L.T. 912; 20 W.R. 316.

SS. 3 & 9 of Licensing Act, 1874, as to closing hours, apply to the holder of a license mentioned in sect. 73, 1, (*Martin v. Barker*, 45 J.P. 749; 50 L.J.M.C. 109; 45 L.T. 214; 29 W.R. 789).

S. 73, 2. The premises for the sale of liqueurs or spirits by retail dealt with in sub-s. 2 are not licensed premises within the meaning of the definition in s. 74, and consequently a police-constable has no right of entry under s. 16, Licensing Act, 1874, p. 143 (*Harrison v. MacI Meel*, 48 J.P. 469; 50 L.T. 210).

SS. 3 & 9, Licensing Act, 1874, apply to the holder of a license mentioned in sub-s. 2.

SS. 20 & 36. See Licensing Act, 1874, s. 18, p. 31, as regards fairs and races, and see also Licensing Act, 1872, s. 72, *supra*.

S. 8. Acts relating to the Cinque Ports are 51 Geo. III, c. 36; 18 & 19 Vict. c. 48; 32 & 33 Vict. c. 53; 38 & 39 Vict. c. 66, sched.; 45 & 46 Vict. c. 50, ss. 248 and 256; 46 & 47 Vict. c. 18, ss. 13 & 14; 46 & 47 Vict. c. 39, sched.; 51 & 52 Vict. c. 41, s. 48 (4).

RECOVERY OF DEBTS.

12. No person or persons whatsoever, shall be entitled unto, or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money, debt, or demands whatsoever, for or on account of any spirituous liquors, unless such debt shall have really been and *bonâ fide* contracted at one time, to the amount of twenty shillings, or upwards; nor shall any particular article or item in any account or demand for distilled spirituous liquors be allowed or maintained, where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least, and that without fraud or covin; and where no part of the liquors so sold or delivered shall have been returned or agreed to be returned directly or indirectly; and in case any retailer of spirituous liquors, with or without a license, shall take or receive any pawn or pledge from any person or persons whatsoever, by way of security for the payment of any sum or sums of money owing by such person or persons for such spirituous liquors, or strong waters, every such person or persons offending herein shall forfeit and lose the sum of forty shillings for each and every pawn or pledge so taken in or received by him or them, to be levied and recovered by warrant, under the hand and seal of one justice of the peace where the offence is committed; and one moiety thereof shall be to the use of the poor of the parish where such offence

24 Geo. II,
c. 40, s. 12.

No debt under
20s. for
spirituous
liquors, con-
tracted at one
time, recover-
able, &c.

Retailer taking
a pledge for
liquors, to
forfeit 40s.

Application of
the penalty.

**24 Geo. II.
c. 40, s. 12.**

Owner may
recover his
pledge.

is committed, and the other moiety to the informer or informers; and the person or persons to whom any such pawn or pledge doth or shall belong, shall have the same remedy for recovering such pawn, or the value thereof, as if it had never been pledged.

**25 & 26
Vict. c. 38.**

Recital of s. 12
of 24 Geo. II,
c. 40, enacting
that no action
should be
brought to re-
cover any debt
for spirituous
liquors, unless
contracted at
one time to the
amount of 20s.

Recited enact-
ment repealed.

Whereas by 24 *Geo. II.*, c. 40, s. 12, it is amongst other things enacted, that no person or persons whatsoever shall be entitled unto, or maintain any cause, action, or suit for, or recover either in law or equity, any sum or sums of money, debt, or demands whatsoever for or on account of any spirituous liquors, unless such debt shall have really been and *bonâ fide* contracted at one time to the amount of twenty shillings or upwards, nor shall any particular article or item in any account or demand for distilled spirituous liquors be allowed or maintained where the liquors delivered at one time, and mentioned in such article or item, shall not amount to the full value of twenty shillings at the least: Be it enacted that so much of the said enactment as is hereinbefore recited shall be and the same is hereby repealed, so far only as relates to spirituous liquors sold to be consumed elsewhere than on the premises where sold, and delivered at the residence of the purchaser thereof in quantities not less at any one time than a reputed quart.

There is an enactment similar to the above sections in the County Courts Act, 1888, (51 & 52 Vict. c. 43), s. 182, prohibiting an action in any court for the recovery of money alleged to be due in respect of the sale of ale, porter, beer, cider, or perry, consumed on the premises where supplied, or in respect of securities given for the purpose of obtaining such liquors.

S. 12, *supra*, extends to spirits mixed with water, (*Scott v. Gilmore*, 3 Taunt. 226). A bill of exchange, part of the consideration for which was the sale of spirits in quantities less than the sum of one pound at one time, was held to be void, (*ibid*, followed in *Cruickshanks v. Rose*, 1 Moo. & R. 100; 5 C. & P. 19). The case of *Spencer v. Smith*, 3 Camp. 9,

which was decided after *Scott v. Gilmore*, *supra*, is not consistent with the decisions in either the last-mentioned case or *Cruickshanks v. Rose*, *ubi supra*.

If two sorts of spirits are sold at the same time, each being below, but together exceeding the sum of one pound, an action for the amount is not prohibited by s. 12, (*Owens v. Porter*, 4 C. & P. 367). One item may not be made out of several sales at different times, *ibid*.

It is not necessary that the liquor should be consumed by the purchaser, (*Burnyeat v. Hutchinson*, 5 B. & Ald. 241 ; *Hughes v. Doane*, 1 Q.B. 294 ; 10 L.J.Q.B. 65), and when an item for spirits under the value of one pound forms part of a larger account, such as a tavern bill, such an item must be treated separately, and the amount is consequently irrecoverable, (*Burnyeat v. Hutchinson*, *ubi supra*).

S. 12 extends to liquor sold by a spirit merchant to a publican for the purpose of being sold again, (*Hughes v. Doane*, *ubi supra*, over-ruling *Jackson v. Attrill*, Peake, N.P.C. 180).

In *Procter v. Nicholson*, 7 C. & P. 67, it was held that the statute did not apply to the case of a hotel-keeper furnishing liquor less than one pound in value to a customer living in his hotel. This decision was doubted in *Hughes v. Doane*, *ubi supra*.

Where sums are due for board and lodging, and for liquor sold at one time below the value of one pound, the creditor may apply general payments on account to the item in respect of liquor, (*Cruickshanks v. Rose*, *ubi supra* ; *Philpott v. Jones*, 2 A. & E. 41 ; 4 L.J.K.B. 65).

In an action for the balance of a settlement of cross-demands, the defendant was held to be bound by the settlement, so as to prevent him setting up a defence under s. 12 (*Dawson v. Remnant*, 6 Esp. 24).

PART III.

EXCISE LICENSES.

GENERAL EXCISE LICENSES.

**6 Geo. IV,
c. 81, s. 13.**

No license to be granted for selling beer or cider by retail, to be drank on the premises, without a justices' license.

13. No excise license shall be granted under or by authority of this Act, for the sale of any beer, or cider, or perry, by retail, to be drank or consumed upon the house or premises of the person or persons who shall not produce at the time of applying for such license a certificate or authority then in force, to him, her, or them in that behalf granted in due form of law by justices of the peace, or magistrates, or other competent persons, for such person or persons applying for such licenses as aforesaid, to keep a common inn, alehouse, or victualling-house; and if any such license shall be granted to any person or persons other than as aforesaid, the same shall be and is hereby declared to be absolutely null and void to all intents and purposes; and the person or persons taking out the same shall be subject to all penalty or penalties to which he, she, or they would have been subject had no such license been granted.

**6 Geo. IV,
c. 81, s. 14.**

No license shall be granted to any person to retail spirits, or foreign wines, or sweets or made wines, or mead or metheglin, to be drank on the premises, who has not a retail beer license.

14. No license for the sale of any spirits or foreign wine, or sweets, or made wines, or mead, or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons who shall not have and produce a license for the sale of beer, cider or perry, by retail, to be drank or consumed in or upon such house or premises, in that behalf granted as herein by this Act before mentioned; and if any license for the sale of any spirits or foreign wine, or sweets, or made wines, or mead or metheglin,

by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons other than as aforesaid, such license shall be and is hereby declared to be absolutely null and void to all intents and purposes; and all and every such person or persons as aforesaid shall be subject and liable to all and every penalty or penalties imposed upon persons selling spirits or foreign wines, or sweets, or made wines, or mead or metheglin, by retail without license. 6 Geo. IV,
c. 81, s. 14.

SS. 13 and 14. General excise licenses, *i.e.*, for the sale by retail of all intoxicating liquors for consumption, either on or off the premises, are granted by virtue of the combined provisions of the above sections and 43 & 44 Vict. c. 20, ss. 2, 40. These licenses may only be granted to persons having a justices' license under 9 Geo. IV, c. 61. Licenses granted to other persons are void, (9 Geo. IV, c. 61, s. 17, p. 231). As to the duty payable on these licenses, *see* 43 & 44 Vict. c. 20, s. 43 (1), p. 351.

As to the persons authorised to grant these licenses, and the contents of such licenses when granted, *see* ss. 6 and 7, 6 Geo. IV, c. 81, p. 170 *et seq.*

Other excise licenses under these sections are those dealt with below.

S. 13. The effect of this section is that an excise license for the sale by retail of beer, cider or perry, for consumption on the premises, can only be granted upon the production of a justices' license obtained under the provisions of 9 Geo. IV, c. 61. No further license is necessary for the retail of the above liquors for consumption off the premises, *see* 4 & 5 Will. IV, c. 85, s. 17.

S. 14. This section is repealed so far as it relates to the sale by retail of foreign wine, to be consumed on the premises, by a licensed keeper of a refreshment-house, (39 & 40 Vict. c. 16, s. 4). Under s. 14, it is necessary, for the purpose of obtaining an excise license for the sale of the liquors therein mentioned for consumption on the premises, that the applicant should produce the on-license for the sale by retail of beer, cider and perry mentioned in s. 13, *supra*. A justices' license is therefore necessary for obtaining both the excise licenses under the above ss. 13 & 14.

The holder of a license to retail spirits is authorised to sell beer or wine by retail without taking out any other excise license, (43 & 44 Vict. c. 20, s. 43 (2), and *see ss. 2 & 40*, pp. 349, 350).

There appears to be nothing in s. 14, *supra*, to prevent a person taking out a license to retail sweets for off-consumption, without having first obtained a beer and cider license under s. 13, *supra*.

TRANSFER OF EXCISE LICENSES.

6 Geo. IV,
c. 81, s. 21.

Licenses may be transferred to the executors, wife, child, or assignee of the person licensed; but in the case of retailing beer to be consumed upon the premises, not without certificate of a magistrate.

21. Upon the death of any person or persons licensed under or by virtue of this Act, or any law or laws of excise, or upon the removal of any such person or persons from the house or premises at which he, she, or they were authorised by such license to exercise or carry on the trade or business mentioned in such license, it shall and may be lawful for the person and persons authorised to grant licenses, to authorise and empower, by indorsement on such license, or otherwise, as the Commissioners of Excise shall direct, the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such license, in or upon the same house or premises at which such person or persons as aforesaid deceased or removing as before mentioned, by virtue of such license to him, her, or them in that behalf granted, before exercised or carried on such trade or business for and during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term and until expiration thereof: Provided always, that a fresh entry of the premises at

which such trade or business shall continue to be so exercised or carried on as aforesaid, shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted ; and provided also, that no such authority as aforesaid shall be granted for the sale of beer, cider, or perry, or sweets, or made wines or sweets, mead or metheglin by retail, to be drank or consumed in or upon the house or premises for which the original license was granted, except and in such cases where a proper certificate granted and given by a justice of the peace or magistrate, or other competent person according to the law, made after the death or removal of the former occupier or occupiers of the premises shall have taken place, shall be produced, approving of the person or persons to whom such certificate shall be given or granted as aforesaid.

6 Geo. IV,
c. 81, s. 21.

S. 21. Power is given to the excise authorities by this section to continue the license for the remainder of its natural term to the personal representative, wife, child, assignee or assigns of a licensed person, on his death or removal from the licensed premises. The person or persons to whom the license is granted must be possessed of and occupy the premises in respect of which the license was originally granted. A fresh entry of the premises in the name of the person to whom the authority is granted must be made to the Excise Commissioners, *see* 7 & 8 Geo. IV, c. 53 ; 4 & 5 Will. IV, c. 51 ; 5 & 6 Will. IV, c. 39 ; 3 & 4 Vict. c. 61, s. 9 ; 4 & 5 Vict. c. 20 ; 23 & 24 Vict. c. 27, s. 23 ; 30 & 31 Vict. c. 90, ss. 11, 12 ; and *see* 35 Geo. III, c. 113.

The possession by the applicant of a justices' certificate empowering him to continue the sale of exciseable liquors, interrupted by the death or removal of the licensed person, is a condition precedent to the grant of an authority under s. 21. The section contemplated by the use of the words "proper certificate granted and given by a justice of the peace or magistrate" appears to be s. 6, 3 Geo. IV, c. 77, repealed by 36 & 37 Vict. c. 91. It is submitted that a justices' license under 9 Geo. IV, c. 61, s. 14, p. 10, is now sufficient to fulfil the condition precedent to the grant of an authority under s. 21, *supra*.

6 Geo. IV,
c. 81, s. 21.

It will be seen that 9 Geo. IV, e. 61, s. 14, includes many contingencies not mentioned in s. 21, *supra*, which applies to the death of the licensed person, or removal from the licensed premises only, and renders the payment of further duty unnecessary. In all the other cases included in 9 Geo. IV, e. 61, s. 14, a new excise license, together with the payment of further duty, is necessary; but the applicant may, if he fulfils the conditions of ss. 17, 18, 6 Geo. IV, e. 81, p. 215 *et seq.*, avail himself of the provisions of those sections in regard to the payment of a proportional part of the duty.

The excise officers have power to grant an *interim* authority, as regards excise licenses, to persons who have obtained an *interim* authority from justices at petty sessions to carry on business to the next special transfer sessions, (5 & 6 Viet. c. 44, s. 1, p. 45).

LICENSE TO NEW BEGINNER. REDUCTION OF DUTY.

6 Geo. IV,
c. 81, s. 17.

Licenses may be granted to new beginners for a proportional part of the year, who shall pay duty accordingly, according to the quarter of the year in which the license shall be taken out.

17. If any person or persons shall commence or begin to exercise or carry on any trade or business, for the exercise or carrying on of which an excise license is required, such person or persons not having before taken out any such license, it shall and may be lawful for the person and persons authorised to grant licenses, to grant such license for the remainder of the current year in which such license shall be taken out, ending on the fifth day of July, or on the tenth day of October next following the date of the license taken out by such person or persons, according to the nature of such license, upon payment of such proportional part of the duty thereupon imposed, in such manner as hereinafter mentioned; that is to say, if such license shall be taken out at any time within the first quarter of the current year in which such license shall be taken out, and ending as aforesaid, or in the quarter expiring on the tenth day of October, or on the fifth day of January, next following the date of such license, according to the nature of the license taken out, that then the person or persons taking out such license

shall pay the whole duty imposed upon such license, in such manner as hereinbefore mentioned at the time of granting such license; and if such license shall be taken out at any time within the second quarter of such current year, and ending as aforesaid, or in the quarter expiring on the fifth day of January, or on the fifth day of April, next following the date of such license, according to the nature of the license taken out, the person or persons taking out such license shall pay three-fourth parts of the duty imposed upon such license, in such manner as hereinbefore mentioned at the time of granting such license; and if such license shall be taken out at any time within the third quarter of such current year, and ending as aforesaid, or in the quarter expiring on the fifth day of April, or on the fifth day of July, next following the date of such license, according to the nature of the license taken out, one-half of the duty imposed upon such license shall be paid in such manner as hereinbefore mentioned at the time of granting such license; and finally, if such license shall be taken out at any time within the last quarter of such current year, and ending as aforesaid, or in the quarter expiring on the fifth day of July, or on the tenth day of October, next following the date of such license, according to the nature of the license taken out, that then a fourth part only of the duty imposed upon such license shall be paid in such manner as hereinbefore mentioned at the time of granting such license.

6 Geo. IV,
c. 81, s. 17.

18. No person or persons who shall at any time have taken out an excise license for the exercise or carrying on of any trade or business for which an excise license is required, and who shall in any subsequent year after such license shall have expired take out a new license for the carrying on the same trade or business, whether on the same or on other or different

6 Geo. IV,
c. 81, s. 18.

Persons who were before licensed, taking out a new license, shall not be considered beginners, unless the old license

**6 Geo. IV,
c. 81, s. 18.**

expired two
years before
such new
license is taken
out.

premises from those on which he, she, or they before carried on such trade or business, shall be deemed or taken to be a person or persons commencing or beginning to exercise or carry on such trade or business, within the intent and meaning of this Act, so as to entitle him, her, or them to take out such license, upon payment of a proportional part only of the duty thereupon imposed; but all and every such person or persons as aforesaid shall pay the whole of such duty, unless the period of time between the expiration of the former license and the taking out of the new license shall at the least be a period of two years.

**6 Geo. IV,
c. 81, s. 24.**

Upon the
expiration of
the magistrate's
authority to
keep a public-
house within
the year (no
conviction
having taken
place) a pro-
portional part
of the duties on
the excise
licenses shall be
returned.

24. And whereas the periods at which justices of the peace or magistrates, or other competent persons as aforesaid, are in the practice of granting such certificates or authorities as aforesaid, to persons to keep common inns, alehouses, or victualling-houses, are various, and at different times in different parts of the United Kingdom: And whereas the same do not in any manner correspond with the period at which excise licenses are granted, or for which the same continue in force; and that upon the expiration of such certificate or authority as aforesaid, the excise license to sell beer, cider, or perry by retail, to be drank or consumed upon the house or premises where sold, granted upon such certificate or authority as aforesaid, expires, and the excise licenses to sell spirits, foreign wines, sweets or made wines, and mead or metheglin by retail, to be drank or consumed upon the house or premises which are granted upon such retail beer excise license do thereupon also expire; be it therefore enacted, That if the term for which any such certificate or authority as aforesaid is granted shall expire (no conviction as before mentioned having taken place) at any time within the first quarter of the current year for which such excise licenses as aforesaid respectively were

granted, and no such certificate or authority shall be renewed or granted for the succeeding year, three-fourth parts of the duties thereupon respectively paid by the person or persons to whom the same respectively were granted, shall be returned to the person or persons then holding such licenses, and carrying on trade or business in such house or premises; and if such certificate or authority as aforesaid shall expire as aforesaid, at any time within the second quarter of the current year for which such licenses as aforesaid respectively were granted, and shall not be renewed or granted for the succeeding year, one-half part of the duties paid thereon respectively shall be returned as aforesaid; and if such certificate or authority shall so expire as aforesaid, at any time within the third quarter of the current year for which such licenses as aforesaid respectively were granted, and shall not be renewed or granted as aforesaid, then one-fourth part of the duties paid thereon respectively shall be returned as aforesaid; and the collector or other person or persons to whom the duty or duties payable on such licenses respectively was or were paid at the time of granting the same, shall and are hereby respectively authorised and required to return such sum or sums of money as aforesaid to such person or persons as aforesaid, on application to him or them being thereupon made by such person or persons for that purpose.

6 Geo. IV,
c. 81, s. 24.

S. 17. This section deals with the grant of new excise licenses to persons not having been previously licensed by the Commissioners of Excise. If the license is taken out after the expiration of the first quarter of the current licensing year, the licensee is allowed a proportional reduction of duty according to the quarter of the year in which the grant of the license is effected, a part of a quarter being reckoned for this purpose as a whole quarter. A new license, under such circumstances, runs for the remainder of the year in which it is granted until the expiration of the current excise year, *i.e.*, October 10 or July 5, as the case may be. See s. 16, 6 Geo. IV, c. 81, p. 172.

S. 18. This section defines the meaning of the words, "commence or begin," as used in s. 17, *supra*, the effect being that a person who has been previously licensed, and after the expiration of his license, has taken out a new license, whether for the same or different premises, is not entitled to the proportional reduction of duty allowed by s. 17, *supra*, unless two years have elapsed between the expiration of the former, and the taking out of the new, license.

S. 24. This section, which provides for a return of a proportional part of duty paid for an excise license, in the event of a justices' license expiring during the currency of the excise license, seems to be applicable to Middlesex and Surrey only, since in other places the period of commencement and determination of a justices' and excise license is the same, *see* 9 Geo. IV, c. 61, s. 13, p. 228.

EXCISE LICENSES BY WHOM GRANTED.

CONTENTS AND DURATION OF LICENSE.

6 Geo. IV, c. 81, s. 6.

Licenses to be granted within the limits of the chief office of excise in London, by the Commissioners of Excise, or such person as they may employ for that purpose, and within the limits of the cities of Edinburgh and Dublin respectively, by the commissioners or assistant commissioners there, or such persons as they may employ for that purpose, and elsewhere by the collectors and supervisors of the respective excise collections, on payment of the duties.

6. Every excise license which is authorised or required to be taken out by this Act shall be granted, and the duty thereupon imposed shall be paid in and throughout the United Kingdom in manner and form following; that is to say, if any such license shall be taken out within the limits of the head or chief office of excise in *London*, then such license shall be granted under the hands and seals of two or more of His Majesty's Commissioners of Excise, or of such person or persons as such commissioners shall from time to time employ for that purpose, and the duty thereupon imposed as aforesaid shall be paid at such head or chief office at the time of granting the license; or if such license shall be taken out within the limits of the cities of *Edinburgh* or of *Dublin* respectively, such license shall be granted under the hands and seals of His Majesty's Commissioner or Commissioners and Assistant Commissioners of Excise acting in and for

Scotland or *Ireland* respectively, for the time being, or of any two of them respectively, or of such person or persons as such commissioner or commissioners and assistant commissioners shall from time to time employ for that purpose, and the duty thereupon imposed shall be paid at the chief office of excise in *Edinburgh* or *Dublin* respectively, at the time of granting the license; or if such license shall be taken out in any other part of the United Kingdom without such respective limits as in that behalf respectively aforesaid, then and in every such case the same shall be granted under the hands and seals of the collector, or other person having charge of the collection, and supervisor of excise within the collection and district in which such license is taken out, and the duty thereupon imposed shall be paid to such collector or other person as aforesaid at the time of granting the license; and such respective Commissioners of Excise in *England*, and Commissioner or Commissioners and Assistant Commissioners of Excise acting in and for *Scotland* and *Ireland* respectively, and the person or persons by them respectively employed as aforesaid, and every collector or other person having charge of the collection, and supervisor as aforesaid, is and are hereby respectively authorised and required to grant and deliver every such license to the person or persons who shall apply for and be legally entitled to receive the same, forthwith upon payment of the duty or sum of money thereupon imposed, free from all poundage, fee, gratuity, or any other payment whatsoever.

6 Geo. IV,
c. 81, s. 6.

7. In every license to be taken out under or by authority of this Act shall be contained and set forth the purpose, trade, or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same, and the true date or time of granting such license, and (except in

6 Geo. IV,
c. 81, s. 7.

Contents of
license.

Partners need not take out more than one license.

the case of auctioneers) the place at which the trade or business for which such license is granted shall be carried on: Provided always, that persons in partnership, and carrying on their trade or business in one place and set of premises only, shall not be obliged to take out more than one license in any one year, for the purpose of carrying on such trade or business.

**6 Geo. IV,
c. 81, s. 16.**

Licenses taken out by brewers and distillers, and by publicans, as retailers of beer, spirits, or foreign wine, or sweets or made wines, or mead, or metheglin, shall expire on the 10th of October in each year, and all other licenses on the 5th day of July, to be renewed yearly, and notice for renewal given by the trader 21 days at least before the expiration of his current license; every such license to bear date from the expiration of the former license when regularly renewed, and when afterwards or otherwise granted, from the date of the application.

16. All excise licenses taken out in the United Kingdom by any brewer or brewers of beer, or by any distiller or maker, distillers or makers of low wines or spirits, or by any person or persons who shall be duly authorised by justices of the peace to keep a common inn, alchouse, or victualling-house, and who shall take out a license for selling beer, cider, or perry by retail, to be drank or consumed in the house or premises, or for selling spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, under or by virtue of this Act, or any other law or laws of excise (except any excise license or licenses theretofore granted, and which shall be then in force and unexpired), shall continue and be in force from the day of the date of such licenses respectively, until the tenth day of *October* following, on which day in each year all such excise licenses (except as aforesaid) shall expire; and that all other excise licenses throughout the United Kingdom, except those above specified, and except as above excepted, shall continue and be in force from the day of the date of such licenses respectively, until the fifth day of *July* following, on which day in each year all such licenses as last aforesaid (except as aforesaid) shall expire; and all and every person or persons who shall have taken out any such license as aforesaid, and who shall wish or intend to continue the trade or business for which such license was granted for any longer space of time, shall take out a fresh license for the year

following, to expire on one of such days as herebefore mentioned, according to the nature of the license by him, her, or them taken out, and shall so renew the same from year to year, so long as he, she, or they shall continue such trade or business, and shall pay in each and every such case the duty thereupon imposed at such time and place as herein-before mentioned; and every such person or persons shall in every such case as aforesaid give notice in writing at least twenty-one days before the expiration of the current license to him, her, or them before granted, of such his, her, or their intention to continue the trade or business for which such license was before granted to the collector or supervisor, or other person or persons authorised to grant licenses for the district or place at which such trade or business shall be carried on; and in cases where the excise license is so renewed as aforesaid, and such notice as aforesaid shall have been given, the new license shall bear date from the day or date of the expiration of the current licenses before granted; but in case where such notice shall not have been given as aforesaid, and in all other cases than as aforesaid, the license shall bear date from the day of the date of the application made for such license, although and notwithstanding any such license may be delivered at any day subsequent to the date of such application.

6 Geo. IV,
c. 81, s. 16.

S. 6. This section prescribes the Commissioners of Excise as the persons by whom excise licenses are to be granted.

S. 16. The general excise licenses, mentioned in the first part of this section, are to continue in force from the date of grant until the 10th day of October following. Other excise licenses expire on July 5 following the date of grant.

A fresh license must be taken out every year, and notice must be given to the proper authority of the district, (*see* s. 6, *supra*), of the intention to renew the license, twenty-one days at least before the expiration of the current license. If this notice is complied with and the

6 Geo. IV,
c. 81, s. 16.

license is renewed it will bear date from the day of expiration of the former license. When a license is granted without previous notice, it will bear date from the day of application for such grant.

As to tobacco and snuff licenses, *see* 52 & 53 Vict. c. 42, s. 23.

EXCISE LICENSES FOR THE SALE BY RETAIL OF BEER, ALE, PORTER, CIDER, AND PERRY.

11 Geo. IV,
and 1 Will.
IV, c. 64,
s. 2.

Parties desirous
of retailing beer
shall take out
a license.

2. It shall be lawful for every and any person, being a householder, (other than and except such persons as are herein-after specially excepted,) who shall be desirous of selling beer, ale, and porter by retail under the provisions of this Act, to apply for and to obtain an excise license for that purpose; and in every application for such license there shall be specified, set forth, and inserted the christian name and surname of the party applying for such license, and a description of the house or premises in which beer, ale, and porter is intended to be sold by retail by such person, and any and every such license which shall be taken out within the limits of the chief office of excise in *London* shall be granted under the hands and seals of two or more of the Commissioners of Excise for the time being, or of such persons as they the said Commissioners of Excise, or the major part of them, for the time being, shall from time to time authorise, employ, or direct for that purpose; and any and every such license which shall be taken out in any part of *England* not within the said limits shall be granted under the respective hands and seals of the several collectors and supervisors of excise within their respective collections and districts; and it shall be lawful for the said Commissioners of Excise, or any two or more of them respectively, and for the person to be authorised, employed, or directed by the said commissioners or the major part of them, and also for all such collectors and supervisors, and they are hereby respectively authorised and required to

In *London*,
licenses shall be
granted by the
Commissioners
of Excise, &c.;
elsewhere in
England, by
the collectors
and super-
visors of Excise.

grant such license to the persons who shall apply for the same, the person so applying first paying for such license a duty of two pounds and two shillings, to be applied and accounted for as herein-after directed ; and every such license shall be dated on the day when the same shall be granted, and every such license shall be duly registered in the proper department of the excise : Provided always, that no such license shall authorise or entitle the party licensed to receive any license to sell or retail wine or spirits, any thing in any Act or Acts of Parliament to the contrary thereof notwithstanding ; and that no such license shall be granted to any person being a sheriff's officer, or officer executing the legal process of any court of justice, and that any license granted to any such person shall be void to all intents and purposes ; and a list or register of every license so granted, specifying the name and place of abode of every person licensed, and the name and description of the house mentioned in such license, shall be kept at the Excise Office with respect to all licenses granted by the Commissioners of Excise or any person authorised by them, and at the office or dwelling-house of every collector and supervisor of excise in their and his respective collections and districts ; and such list or register shall at all times be produced to and shall be open to the inspection and perusal of any magistrate of the county or place where such license shall be granted and where such house shall be situate ; and a copy of such list or register shall once in every calendar month be transmitted by every such collector or supervisor to the clerk of the magistrates for the district in which such license shall be granted ; and any copy of or extract from such list or register, which shall or may be at any time required by the clerk to the magistrates, shall be given to him by such collector or supervisor whenever thereto required.

11 Geo. IV,
and 1 Will.
IV, c. 64,
s. 2.

License duty.

No license
shall be granted
to a sheriff's
officer or non-
householder.

Register of
licenses.

Licenses shall
be produced for
the inspection of
magistrates.

11 Geo. IV,
and 1 Will.
IV, c. 64,
s. 30.

Licenses to
retail cider may
be granted
under the
regulations of
this Act, on
payment of
1*l.* 1*s.* duty.

Provision and
penalties of
this Act with
respect to the
sale of beer to
apply to the
sale of cider.

Persons licensed
to retail beer
may also retail
cider.

30. And whereas it is expedient that the sale of cider and perry by retail should be licensed in like manner and should be subject to the like regulations as the sale of beer; be it therefore enacted, That from and after the tenth day of *October* One thousand eight hundred and thirty, it shall be lawful for any person desirous of selling cider and perry by retail to apply for and to obtain an excise license for that purpose, under the same regulations in all respects (except as herein-after is otherwise provided) as are in this Act prescribed and contained with respect to persons desirous of selling beer, ale, and porter by retail, and of being licensed for that purpose; and that all the clauses, regulations, and provisions in this Act contained relating to the sale of beer by retail, and to the licenses for selling the same, and to the conduct of the parties licensed, and to all other matters whatever respecting the selling of beer by retail, and the retailers thereof, and the licenses for the same, and the houses where the same are sold, and the penalties against the parties licensed, shall be taken and deemed to be applicable to the sale of cider and perry by retail, and to licenses for the same, and to the sellers of cider and perry by retail, as if cider and perry, and the retailers thereof, were expressly mentioned and specified in and throughout this Act: Provided always, that the person receiving a license for selling cider or perry by retail shall pay for such license a duty of one pound one shilling and no more, instead of the duty of two pounds two shillings herein-before mentioned, and which said duty of one pound one shilling shall be applied in like manner as the said duty of two pounds two shillings is herein-before directed to be applied: Provided also, that any person licensed under this Act to sell beer by retail may sell also cider and perry by retail without receiving a separate license for that

purpose; but that no person licensed to sell cider and perry by retail, and paying for such license, as herein provided, the sum of one pound and one shilling, shall be at liberty to sell beer by retail.

11 Geo. IV,
and 1 Will.
IV, c. 64,
s. 30.

SS. 2 and 30. The effect of these sections is that excise licenses may be granted for the sale by retail of beer, ale, porter, cider and perry to persons who are not licensed under 9 Geo. IV, c. 61. See the definitions of "beer" and "cider," s. 32, 11 Geo. IV, and 1 Will. IV, c. 64; and as to "beer" 48 & 49 Vict. c. 51, s. 4 (1) (2). "Beer" includes "cider," and "cider" includes "perry," (43 & 44 Vict. c. 20, s. 40).

A license for the sale of cider and perry must specify whether the same is to be consumed on or off the premises, (4 & 5 Will. IV, c. 85, s. 15). A holder of a beer license may sell for consumption, on or off the premises, without such sale being specified in the license, (*ibid*, s. 13). As to the duty on the above licenses, see 43 & 44 Vict. c. 20, s. 41, p. 207.

S. 2. The above licenses can only be granted on the production of a certificate under 32 & 33 Vict. c. 27, see s. 4 of that Act. A license otherwise obtained is void, (*ibid*, and see that section p. 2, and *cf.* *Thompson v. Harvey*, 4 H. & N. 254; 23 J.P. 150; 28 L.J.M.C. 163).

It is necessary for the applicant to be a householder, (s. 2, *supra*) and the real resident holder and occupier of the dwelling-house in respect of which his application is made, (3 & 4 Vict. c. 61, s. 1). In order to satisfy this requirement he must sleep on the premises, (*R. v. Allmey*, 35 J.P. 534). The application must contain the full name of the applicant and a description of the premises in which the sale of liquor is intended to take place. (S. 2, *supra*.)

The authorities from whom and the manner in which these licenses are to be obtained are pointed out by s. 2, *supra*. These licenses run from the day when they are granted until the following 10th day of October, (24 & 25 Vict. c. 91, s. 14), and the provisions of 6 Geo. IV, c. 81, s. 17, p. 166, as to a proportional reduction of duty to persons beginning business, are applicable, see also s. 18, *ibid*, p. 167.

S. 2, *supra*, also provides for the keeping of a register of licenses, the production thereof for the inspection of justices of the district and the monthly transmission of copies to the clerk of the justices.

11 Geo. IV,
and 1 Will.
IV, c. 64,
ss. 2, 30.

The renewal of these licenses is effected by taking out a fresh license before the expiration of the former license, (11 Geo. IV, c. 64, s. 7).

See, as to tobacco and snuff licenses, 52 & 53 Vict. c. 42, s. 23.

Under 3 & 4 Vict. c. 61, s. 8, on the death of a licensed person during the currency of the license, the excise authorities have power to grant a license to the executors or administrators, or the widow or child of the deceased licensee, to continue the retail sale of beer and cider in the same premises for the residue of the term of the original license. A fresh license is unnecessary, and no further payment of duty is required. The persons above enumerated must be possessed of and must occupy the dwelling-house and premises in which the business was previously carried on; fresh entry at the Excise Office is not requisite. At the expiration of the deceased person's license, if his death has occurred within three months of the end of the term for which the license was granted, a new license may be granted, on payment of duty, to the executors, administrators, or widow for the year following.

There is no provision in s. 8, *supra*, for the case of removal of a licensed person as in 6 Geo. IV, c. 81, s. 21, p. 164; nor is it necessary to produce a justices' certificate as is the case under the last-mentioned section, the reason being that no justice's license or certificate was necessary for a beerhouse license at the date of the passing of 3 & 4 Vict. c. 61, but *see* now 32 & 33 Vict. c. 27, s. 4, p. 2. The words "license or renewal of a license" in s. 4, *ibid*, obviously do not cover the authority to continue the business under 3 & 4 Vict. c. 61, s. 8, *supra*. It is submitted that, by virtue of Licensing Act, 1872, s. 3, p. 96, and the definitions of "license" and "licensed person" in s. 74, *ibid*, p. 321, it is now necessary to obtain a transfer certificate.

These licenses may not be granted in respect of premises of an annual value of less than £15, £11, or £8 respectively, according to the locality in which such premises are situated, (3 & 4 Vict. c. 61, ss. 1, 4, and Licensing Act, 1872, s. 46, p. 55). *See* also 32 & 33 Vict. c. 67, ss. 45, 76, and 33 & 34 Vict. c. 111, s. 1, and note s. 2 restricting the application of the Act to houses licensed before the passing of the Act, and over-riding the decision in *Preston v. Buckley*, L.R. 5 Q.B. 391; 35 J.P. 38; 39 L.J.M.C. 105; 22 L.T. 653; 18 W.R. 1104. The qualification above-mentioned only applies to premises with "off" licenses, and to those having

"on" licenses which have been continuously renewed since August 10, 1872, (Licensing Act, 1872, s. 45, p. 53). Other houses are subject to the higher value prescribed by s. 45, *ibid.* Persons, licensed before the passing of 3 & 4 Vict. c. 61, and continuing to be so licensed in respect of the same premises are not subject to the provisions of s. 1, *ibid.*, as to the value of premises, but this exemption is now hardly likely to be of any practical importance. As to the meaning of premises, *see* *Garett v. Potts*, L.R. 6 Q.B. 86; 35 J.P. 168; 40 L.J.M.C. 1; 23 L.T. 554; 19 W.R. 127.

11 Geo. IV,
and 1 Will.
IV, c. 64,
ss. 2, 30.

PENALTIES FOR PERMITTING THE SALE OF WINES OR SPIRITS.

16. No license to be granted under the said recited Act and this Act for the sale of beer or cider shall authorise any person to take out or hold any license for the sale of wine, spirits or sweets or made wines, or mead or metheglin; and if any person licensed under the said recited Act and this Act to sell beer or cider shall permit or suffer any wine or spirits, sweets or made wines, mead, or metheglin, to be brought into his house or premises to be drunk or consumed there, or shall suffer any wine, spirits, sweets, mead, or metheglin to be drunk or consumed in his house or premises by any person whomsoever, such person shall, over and above any excise penalty or penalties to which he may be subject, forfeit twenty pounds, to be recovered, levied, mitigated, and applied in the same manner as other penalties (not being excise penalties) are by this Act to be recovered, levied, mitigated, and applied.

4 & 5 Will.
IV, c. 85,
s. 16.

Licenses under this Act not to authorise persons to hold licenses for sale of wine.

Penalty on persons licensed under this Act permitting wine or spirits to be consumed on the premises.

S. 16. This section prescribes the penalties to be incurred by a holder of a license under the Beerhouse Acts, p. 174, (1) for permitting wine, spirits, or sweets to be brought upon the licensed premises for consumption there; (2) for permitting wine, spirits and sweets to be consumed on the premises. The penalty in either case is the sum of £20 in addition to any excise penalty to which the offender may be subject. *See* 42 & 43 Vict. c. 49, s. 4, as to the

4 & 5 Will. IV, c. 85, s. 16. reduction of a penalty in the case of a first offence. *See* also 4 & 5 Will. IV, c. 85, s. 20.

Officers of excise may enter the premises of licensed beer retailers and search for liquors not authorised to be sold there, and also examine beer or cider kept on the premises, (3 & 4 Vict. c. 61, s. 11).

By s. 10, 24 & 25 Vict. c. 91, persons licensed for the sale of beer are expressly exempted from any disqualification as regards taking out refreshment-house licenses under 23 & 24 Vict. c. 27; and by s. 11, *ibid*, persons licensed under the last-mentioned Act are excepted from liability to penalties under s. 16, *supra*. The "recited Act" is 11 Geo. IV, and 1 Will. IV.

PENALTIES ON UNLICENSED PERSON SELLING BEER, CIDER AND OTHER LIQUORS.

4 & 5 Will. IV, c. 85, s. 17. **17.** Every person not being duly licensed to sell beer, eider, and perry as the keeper of a common inn, alehouse, or victualling-house who shall sell any beer or eider or perry by retail, not to be drank or consumed in or upon the house or premises where sold, without having an exeise retail liense in foree authorising him so to do, shall forfeit ten pounds; and every person not being duly licensed to sell beer, eider, and perry as the keeper of a common inn, alehouse, or victualling-house who shall sell any beer, eider, or perry by retail, to be drank or consumed in or upon the house or premises where sold, without having an exeise retail liense in foree authorising him so to do, whether such person shall or shall not be licensed to sell beer to be drank or consumed off the premises where sold, shall forfeit twenty pounds; which said penalties shall be sued for and reeovered, mitigated and applied, by the same means and under the same provisions as any other penalty may be sued for and reeovered, mitigated and applied, under any law or laws of exeise.

Penalty on
unlicensed
persons selling
beer and cider
by retail to be
drank off the
premises, 10*l.*;
to be drank on
the premises,
20*l.*

26. If any person or persons shall make or manufacture, deal in, retail, or sell any goods or commodities hereinafter mentioned, or shall exercise or carry on any trade, or business hereinafter mentioned, for the making or manufacturing, or dealing in, retailing, or selling of which goods or commodities, or for the exercising or carrying on of which trade or business a license is required by this Act, without taking out such license as is in that behalf required, he, she, or they shall for every such offence respectively forfeit and lose the respective penalty thereupon imposed, as hereinafter follows: (that is to say)

6 Geo. IV,
c. 81, s. 26.

Penalty for not
taking out
licenses re-
quired by the
Act.

Every person, not being a brewer of beer, who shall sell strong beer only in casks, containing not less than four gallons and a half, or in not less than two dozen reputed quart bottles at one time, to be drank or consumed elsewhere than on his, her, or their premises; . . . every dealer in spirits, not being a retailer thereof; every dealer in foreign wine . . . so offending respectively, shall respectively forfeit and lose the sum of one hundred pounds. Every person who shall sell beer, cider or perry by retail to be drank or consumed in his, her, or their house or premises; every retailer of spirits; every retailer of foreign wine; every retailer of sweets or made wines, or of mead or metheglin . . . so offending respectively, shall respectively forfeit and lose the sum of fifty pounds. Penalties.

SS. 17 and 26. The effect of these sections is that no intoxicating liquor may be sold without an excise license authorising the sale of such liquors. S. 17, *supra*, applies to the sale of beer, cider, or perry not to be consumed on the premises, for the sale of which without a license no penalty was imposed under 6 Geo. IV, c. 81. A person licensed to sell beer, cider, and perry under the last-mentioned Act, s. 13 (*see* p. 162), for consumption on the premises, may, however, sell such liquor for "off" consumption without taking out any further excise license. (S. 17, *supra*.)

S. 26, *supra*, provides penalties for the sale of all other liquors without an excise license authorising such sale, and see 4 & 5 Will. IV, c. 85, s. 20.

"Beer" includes beer, ale, and porter, and "cider" includes cider and perry, (11 Geo. IV, and 1 Will. IV, c. 64, s. 32; 4 & 5 Will. IV, c. 85, s. 12, and see also as to the meaning of "beer," 48 & 49 Viet. c. 51, s. 4, and see definitions of intoxicating liquor, p. 49).

The penalty for selling beer, ale, porter, cider, or perry for consumption off the premises without an excise license authorising such sale is £10; the penalty, where a person not licensed under 9 Geo. IV, c. 61, to sell beer, cider, and perry, sells such liquors to be drunk on the premises, without having an excise license authorising such sale, is £20, (s. 17, *supra*). The penalty for a person selling or exposing for sale spirits otherwise than in premises licensed for such sale is £100, (43 & 44 Viet. c. 24, s. 146). In the case of other liquors, the penalty is £50 (s. 26, *supra*); and see also 11 Geo. IV, and 1 Will. IV, c. 64, s. 7, and s. 17, *supra*.

A person selling wine by retail, whether to be consumed on the premises or not, without a license authorising such sale, is liable to an additional penalty of £20, (23 & 24 Viet. c. 27, s. 19).

By 52 & 53 Viet. c. 42, s. 24, the holder of an excise license who contravenes the terms of his license or sells otherwise than he is authorised by such license is liable, where no specific penalty is imposed by the Excise Acts, to the penalties for selling without an excise license, (*cf.* the similar provisions in 11 Geo. IV, and 1 Will. IV, c. 64, s. 7, superseded by s. 24, *supra*).

A penalty is imposed on unlicensed persons soliciting or receiving orders for exciseable liquors, and not being *bonâ fide* travellers for persons duly licensed for the sale of such liquors. The penalty is the same as that for selling without an excise license, *supra*, (30 & 31 Viet. c. 90, s. 17).

Where persons were duly licensed to retail spirits in Worcester and let premises in Cheltenham to their traveller, and held a license for such premises as dealers in beer only, on the traveller taking orders for spirits at the latter and transmitting them to the former place, where they were executed, it was held that the licensed persons were properly convicted under s. 17, *supra*, as retailers of spirits in Cheltenham, although such liquor was kept in and delivered from a store in another place, (*Stallard v. Marks*,

3 Q.B.D. 412; 42 J.P. 359; 47 L.J.M.C. 91; 38 L.T. 566; 26 W.R. 694). It is a question of fact for the justices to decide whether or not a man is a *bonâ fide* traveller. The fact of a man having an office and receiving orders there does not prevent him being a traveller, (*Stuchbery v. Spencer*, 51 J.P. 181; 55 L.J.M.C. 141).

The occupier of premises where goods are sold without a proper license by persons unknown is deemed to be the seller, if he is privy to such sale, (6 Geo. IV, c. 81, s. 27).

The procedure with regard to excise penalties is governed by 6 Geo. IV, c. 81, s. 29; 7 & 8 Geo. IV, c. 53; 9 Geo. IV, c. 44, s. 2; 4 & 5 Will. IV, c. 51; 2 & 3 Vict. c. 71, s. 35; 4 & 5 Vict. c. 20; 11 & 12 Vict. c. 118, s. 3; 41 & 42 Vict. c. 15, s. 23; 42 & 43 Vict. c. 21, s. 26; 42 & 43 Vict. c. 49, s. 53; 51 & 52 Vict. c. 8, s. 8; 53 & 54 Vict. c. 21.

As to reducing the amount of penalties, *see* 42 & 43 Vict. c. 49, ss. 4, 53.

As regards proceedings on appeal from a conviction under 7 & 8 Geo. IV, c. 53, s. 83, *supra*, *see R. v. Glamorganshire JJ.*, 22 Q.B.D. 628; 53 J.P. 294; 58 L.J.M.C. 93; 60 L.T. 536; 37 W.R. 493.

The effect of the Summary Jurisdiction Acts, 1879 and 1884, (42 & 43 Vict. c. 49; 47 & 48 Vict. c. 43) is to repeal by implication the provision as to the time of giving notice of appeal prescribed by s. 83, *supra*, and the time within which notice must be given is now seven days by virtue of ss. 31 and 6 respectively of the Summary Jurisdiction Acts above-mentioned, (*R. v. Glamorganshire JJ.*, *ubi supra*).

As the grant of an excise license is not a judicial act, *certiorari* does not lie, (*R. v. Salford Overseers*, 18 Q.B. 687; 21 L.J.M.C. 223).

An excise license only authorises the carrying on of the business mentioned therein upon the premises specified in the license, (53 & 54 Vict. c. 8, s. 9; 6 Geo. IV, c. 81, s. 10; and *see* 23 & 24 Vict. c. 113, s. 37, as to beer, and 43 & 44 Vict. c. 24, s. 146, as to penalties in the case of spirits). In the event of premises, in respect of which an excise license is in force, being burnt or destroyed, the license may be transferred to other premises in the same district, due entry being made at the Excise Office by the transferee at the time of removal thereto. As to entry, *see* p. 165. Where the license originally granted required a justices' license or certificate under 9 Geo. IV, c. 61, a transfer license under s. 14, *ibid*, p. 10, must be produced to the excise

authorities before the transfer excise license can be granted, (6 Geo. IV, c. 81, s. 11 ; *see also* Licensing Act, 1872, s. 3). Where the justices' license or certificate is forfeited or becomes void in pursuance of Licensing Act, 1872, the excise license becomes void also, (Licensing Act, 1872, s. 63, p. 318, and *see* 6 Geo. IV, c. 81, s. 23).

TABLE BEER LICENSE.

**24 & 25
Vict. c. 21,
s. 3.**

Licenses may be granted for the sale of table beer by retail not to be drunk on the premises, without persons being rated.

3. It shall be lawful for any person to take out a license for the sale in any house or shop of table beer, at a price not exceeding the rate of one penny half-penny the quart, and not to be drunk or consumed on the premises where sold ; and it shall not be necessary to the obtaining of such license that the said house or shop shall be rated to the relief of the poor to any amount.

S. 3. A certificate of justices is necessary for obtaining this table beer license, (32 & 33 Vict. c. 27, s. 4). The duty on this license is five shillings, (Sched. A, 24 & 25 Vict. c. 21). The license expires on July 5, (6 Geo. IV, c. 81, s. 16, and 24 & 25 Vict. c. 21, s. 4).

See 3 & 4 Vict. c. 61, s. 12, giving power of search to excise officers.

The rest of this section is repealed by 41 & 42 Vict. c. 79.

See, as to tobacco and snuff, 52 & 53 Vict. c. 42, s. 23.

BEER DEALER'S ADDITIONAL RETAIL LICENSE.

**26 & 27
Vict. c. 33,
s. 1.**

Licensed beer dealers may take out additional license to sell beer by retail not to be consumed on the premises.

1. From and after the passing of this Act any person who, in *England* or *Ireland*, shall have taken out an excise license to sell strong beer in casks containing not less than four and a half gallons or in not less than two dozen reputed quart bottles at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional license on payment of the excise duty of one pound one shilling, and five *per cent.* thereon : and the same shall authorise

such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold; and such additional license shall be granted without the production of any certificate or the possession of any other qualification than the license herein first mentioned.

26 & 27
Vict. c. 33,
s. 1.

S. 1. This license may only be granted on the production of justices' certificate, (32 & 33 Vict. c. 27, s. 4, p. 2). The excise license is governed by 6 Geo. IV, c. 81, s. 2, p. 209.

The valuation qualification for this license is that imposed by 3 & 4 Vict. c. 61, s. 1, unless a certificate of justices authorising such sale was in force on July 14, 1870, in which case no valuation qualification is necessary, (33 & 34 Vict. c. 29, s. 10).

The license expires on July 5, (6 Geo. IV, c. 81, s. 16, p. 172, and 26 & 27 Vict. c. 33, s. 26), and the duty is £1 5s., (43 & 44 Vict. c. 20, s. 41).

Non-residence by the applicant upon the premises in respect of which the license is sought, is no disqualification within 32 & 33 Vict. c. 27, s. 8, sub-s. 4, p. 64, (*R. v. De Rutzen*, 1 Q.B.D. 55; 40 J.P. 150; 45 L.J.M.C. 57; 33 L.T. 726; 24 W.R. 343).

Where a person, not being licensed himself, was a servant of a company duly licensed in the names of directors to deal wholesale in beer and spirits, it was held that the servant was not qualified to apply for an additional retail off-license in respect of a branch establishment belonging to the company but managed by him on their behalf, (*R. v. Jones, ex parte Davies*, 59 J.P. 87).

The holder of a license under s. 1, *supra*, is a person "licensed to sell beer by retail" within s. 18 of the Game Act, 1831, (1 & 2 Will. IV, c. 32), and is therefore disqualified from holding a license to deal in game under that section, (*Schoobred v. St. Pancras JJ.*, 24 Q.B.D. 346; 54 J.P. 231; 59 L.J.M.C. 63; 62 L.T. 287; 38 W.R. 399).

As to the meaning of sale of beer by retail, *see* p. 52.

The justices have an absolute discretion as to the grant or refusal of this license, (43 Vict. c. 6, s. 1, p. 66).

The certificate of justices can now only be obtained at the General Annual Licensing Meeting, not at the special transfer sessions as formerly, (s. 2, *ibid*, repealing Licensing Act, 1874, s. 31, *see* p. 349).

LICENSE NECESSARY TO KEEP A REFRESHMENT-
HOUSE.

**23 & 24
Vict. c. 27,
s. 6.**

Persons keep-
ing houses, &c.,
herein named
required to take
out licenses.

6. All houses, rooms, shops, or buildings kept open for public refreshment, resort, and entertainment at any time between the hours of ten of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine, or spirits respectively, shall be deemed refreshment-houses within this Act, and the resident, owner, tenant, or occupier thereof shall be required to take out a license under this Act to keep a refreshment-house; and every person who shall keep any house, room, shop, or building for the purpose of selling therein any victual or refreshment to be consumed on the premises where the same shall be sold (except beer, cider, wine and spirits sold respectively under a proper license in that behalf), and every person who shall keep any house, room, shop or building for the consumption therein by the public of any refreshment (except as aforesaid), although the same shall not be sold therein, may, if he shall think fit, take out a license under this Act to keep a refreshment-house; and in all proceedings and upon all occasions whatever it shall be sufficient to describe by the term refreshment-house any house, room, shop, or building in which any such article as aforesaid (except as aforesaid) is sold to be consumed, or is consumed as aforesaid, without further or otherwise designating or describing the same.

S. 6. The word "ten" was substituted for "nine" by 24 & 25 Vict. c. 91, s. 8.

As to the persons by whom these licenses are to be granted, *see* 23 & 24 Vict. c. 27, s. 10. Where the rent or annual value of the premises is £30 or more the duty is £1 1s., in all other cases it is 10s. 6d., (24 & 25 Vict. c. 91, s. 9). The penalty for keeping a refreshment-house without a license is limited to £20, (23 & 24 Vict. c. 27, s. 9, and *see* s. 43, *ibid*, as to the recovery of excise penalties).

As to the meaning of the words "public refreshment, "resort, and entertainment," see *Muir v. Keay*, L.R. 10 Q.B. 594; 40 J.P. 694; 44 L.J.M.C. 143; 23 W.R. 700. Public entertainment does not necessarily mean a musical or other public performance, (*ibid*, see judgment of Lush, J., at p. 598), nor is it necessary that the persons who resort to the premises should be accommodated with seats, (*Howes v. Board of Inland Revenue*, 1 Ex. D. 385; 40 J.P. 694; 41 J.P. 423; 45 L.J.M.C. 86; 46 L.J.M.C. 15; 33 L.T. 818; 35 L.T. 584; 24 W.R. 407, 897; and see also *Taylor v. Oram*, 1 H. & C. 370; 27 J.P. 8; 31 L.J.M.C. 252; 7 L.T. 68; 10 W.R. 800; and *Kelleway v. Macdougall*, 45 J.P. 207).

23 & 24
Vict. c. 27,
s. 6.

Consumption of intoxicating liquor may not take place in refreshment-houses during the time when premises for the sale of intoxicating liquor are ordered to be closed under Licensing Act, 1874, s. 3, p. 79, see Licensing Act, 1872, s. 27, p. 88, and such houses must not be kept open, nor must any refreshment be sold or exposed for sale therein from the time of closing prescribed by Licensing Act, 1874, s. 3, until 4 a.m. of the following morning, (see 27 & 28 Vict. c. 64, s. 5; Licensing Act, 1874, s. 11, p. 87).

A keeper of a refreshment-house, where no intoxicating liquors are sold, need not shut up his house on Sunday in Wales, (*Berni v. Thorney*, 64 L.J.M.C. 271; 72 L.T. 630; 43 W.R. 411).

The hours of closing above dealt with do not apply to sales at railway stations between the time prescribed for closing by Licensing Act, 1874, s. 3, p. 79, and 4 a.m., (see s. 11, *ibid*, and 27 & 28 Vict. c. 64, s. 10). Occasional licenses exempting refreshment-house keepers from the provisions of the Public House Closing Act, 1865, (27 & 28 Vict. c. 64) may be obtained under ss. 7, 8, of that Act, and see 28 & 29 Vict. c. 77, s. 5; and further exemptions may be granted for the convenience of persons attending market in the neighbourhood of refreshment-houses, (28 & 29 Vict. c. 77, s. 2).

A refreshment-house keeper, although not holding a wine license, may not sell articles for consumption off the premises on Sunday, (*Duffell v. Curtis*, 35 L.T. 853).

A keeper of a refreshment-house who suffers gaming, or allows prostitutes, thieves, or drunken or disorderly persons to assemble therein, is liable to penalties not exceeding £2, £5, or £20 for the first, second, and subsequent offence

**23 & 24
Vict. c. 27,
s. 6.**

respectively or to forfeiture of his license and disqualification for obtaining a fresh license for one year, (23 & 24 Vict. c. 27, s. 32). As to the mode of recovering penalties and the time within which they are recoverable, *see* s. 30, *ibid*; and as to procedure, etc., *see* ss. 33-38, 42, *ibid*. Persons acting in a disorderly manner in refreshment-houses and refusing to leave on request are liable to a penalty not exceeding forty shillings, (s. 41, *ibid*). The above sections relating to offences, penalties and procedure are repealed so far as they relate to the sale of intoxicating liquors or any offences connected therewith by Licensing Act, 1872, Sched.

See 23 & 24 Vict. c. 27, s. 18, as to a constable's right to enter refreshment-houses.

REFRESHMENT-HOUSE KEEPERS' WINE AND SWEETS LICENSE.

**23 & 24
Vict. c. 27,
s. 7.**

Confectioners
and eating-
house keepers
entitled to take
out licenses to
sell wine to be
drunk on the
premises.

7. Every person who shall be licensed to keep a refreshment house, and shall pursue therein the trade or business of a confectioner, or shall keep open such house as an eating-house, for the purpose of selling, to be consumed therein, animal food or other victuals wherewith wine or other fermented liquors are usually drunk, shall be entitled (subject to the terms and conditions of this Act, and not being expressly disqualified thereby,) to take out a license to sell foreign wine by retail in such refreshment-house, to be consumed on the premises where the same shall have been sold, without producing or having any other license or authority than as aforesaid; and every confectioner and eating-house keeper respectively who shall have taken out such license to retail wine under this Act, shall not be subject or liable to any penalty or forfeiture under any other Act or Acts by reason or on account of his selling wine by retail, or having the same in his possession in his entered premises, anything in any other Act or Acts to the contrary notwithstanding.

10. And whereas an Act was passed in the last session of Parliament, chapter twenty-seven, for granting to Her Majesty certain duties on wine licenses and refreshment-houses, and doubts have arisen whether persons licensed to retail beer in England are precluded from taking out or having granted to them a license for the sale of wine under the said Act: For the removal of such doubts, be it declared and enacted, that nothing in the said Act or in any other Act or Acts contained shall be adjudged, deemed, or construed to preclude or disqualify any person from taking out or having granted to him any license for the sale of wine under the said Act of the last session of Parliament, by reason or on account of his being licensed for the sale of beer under any Act or Acts in that behalf.

24 & 25
Vict. c. 91,
s. 10.

Persons
licensed to
retail beer not
precluded from
taking out wine
licenses.

11. No person licensed for the sale of wine under the Act passed in the last session of Parliament, chapter twenty-seven, shall be subject or liable to any penalty or forfeiture under any Act relating to the retailing of beer by reason or on account of his selling, dealing in, retailing, or receiving into, or having in his possession any wine or sweets or made wines, or mead or metheglin, anything in any such Act or Acts as last mentioned to the contrary notwithstanding.

24 & 25
Vict. c. 91,
s. 11.

Persons
licensed to
retail wine not
to be subject to
penalty under
the Beer Acts,
for having wine
or sweets in
possession.

SS. 7, 10 and 11. The effect of these sections is that a person licensed to keep a refreshment-house, (23 & 24 Vict. c. 27, s. 6, p. 186) whether he is licensed to retail beer or not, provided that he carries on the business of a confectioner in such house, or uses such house as an eating-house for the purpose of selling for consumption therein animal food or other victuals with which wine or other fermented liquors are usually drunk, is entitled to take out an excise license for the sale therein of wine, (*see* 23 & 24 Vict. c. 27, s. 21), and sweets, (26 & 27 Vict. c. 33, s. 18; 38 & 39 Vict. c. 23, s. 9), for consumption on the premises. This license can only be obtained on the production of a justices' certificate, (32 & 33 Vict. c. 27, s. 4, p. 2).

The definition of "license" in Licensing Act, 1872, s. 74, assumes that an excise license for the sale of sweets alone

may be granted in those cases where a retail wine license can be obtained. At the same time, it is difficult to find any ground for this assumption inasmuch as the Excise Acts do not appear to disclose any such power except in those cases where persons are licensed under 9 Geo. IV, c. 61.

The duty on a license for the sale of sweets alone for consumption on or off the premises is £1 5s., (43 & 44 Vict. c. 20, s. 41). "Best pale sherry, British," is wine, not sweets, (*Richards v. Banks*, 52 J.P. 23; 58 L.T. 634).

There appears to be nothing to prevent a sale by retail for consumption off the premises under this license. A conviction for felony or for selling spirits without a license is a permanent disqualification for selling wine by retail, and a license to sell wine by retail taken out after such conviction is void, (23 & 24 Vict. c. 27, s. 22).

This license may not be granted in respect of premises of a less annual value than £10, and if the premises are situated in a town with a population exceeding 10,000 persons, the annual value qualification must be not less than £20, (23 & 24 Vict. c. 27, s. 8, Licensing Act, 1872, s. 46). In the case of premises not licensed on August 10, 1872, the annual value qualification is regulated by Licensing Act, 1872, s. 45, (*see* this section, p. 53). The duty on this license is £3 10s., (43 & 44 Vict. c. 20, s. 41).

A person licensed in respect of a refreshment-house not to be kept open after ten o'clock at night, and obtaining a license to sell wine by retail therein for consumption on the premises is allowed an abatement of duty, (24 & 25 Vict. c. 91, s. 9; 39 & 40 Vict. c. 16, s. 4, and *see* Licensing Act, 1872, s. 28). As to the penalties imposed for selling or exposing in, or keeping open a refreshment-house for sale of intoxicating liquors after 10 o'clock, or allowing consumption during prohibited hours, *see* s. 28, *ibid*.

See, as to tobacco and snuff licenses, 52 & 53 Vict. c. 42, s. 23.

Entry must be made with the excise officer of every house, room and place used for storing or retailing wine, (23 & 24 Vict. c. 27, s. 23, and *see* the Acts cited at p. 165).

As to power of entry by excise officers, *see* s. 24, *ibid*.

A person who is licensed to retail wine under this license and has spirits in his possession forfeits the sum of £50 in addition to other penalties. The spirits are forfeited, and on the conviction of the licensed person for having spirits in his possession or for selling or retailing them, his license for retailing wine becomes void, (s. 25, *ibid*). As to what is spirits, *see* s. 21, *ibid*.

REFRESHMENT-HOUSE LICENSES.

DATE, EXPIRATION, RENEWAL AND CONTINUANCE, ETC.

11. All licenses which shall be granted under the authority of this Act between the thirty-first day of March and the first day of May in any year shall be dated on the first day of April, and all licenses which shall be granted at any other time shall be dated on the day on which the same shall be granted; and all such licenses, whensoever granted, shall have effect on and after the day of the date thereof until the first day of April then next following, and shall be renewed annually on payment of the duty by this Act charged thereon respectively.

**23 & 24
Vict. c. 27,
s. 11.**

Licenses: Date, expiration, and renewal thereof.

12. Upon the death of any person licensed under this Act before the expiration of the license, it shall be lawful for the persons authorised to grant licenses to authorise and empower, by endorsement or otherwise, as the Commissioners of Inland Revenue shall direct, the executors or administrators or the widow or child of such deceased person who shall be possessed of and occupy the dwelling-house and premises before used for such purpose, to continue the business for which such license was granted, and to sell in the same house and premises such articles as by the said license are authorised to be sold therein, during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty thereon, and the person so authorised and empowered shall then be deemed to be a person licensed under this Act, and accordingly subject to the provisions, conditions, regulations, and penalties contained therein.

**23 & 24
Vict. c. 27,
s. 12.**

On death of a licensed person, his representative, or widow or child, may be authorised to continue the business for which the license was granted, for the remainder of the term thereof.

**25 & 26
Vict. c. 22,
s. 15.**

Licenses
granted under
23 Vict. c. 27,
and 23 & 24
Vict. c. 107,
may be trans-
ferred as other
excise licenses
in case of the
removal of the
licensed person.

15. The provisions contained in the twenty-first section of the Act passed in the sixth year of the reign of King George the Fourth, chapter eighty-one, relating to the transfer of excise licenses in the case of the removal of any person from the house or premises at which he shall be licensed under that Act, shall be and the same are hereby extended to licenses granted under the Act passed in the twenty-third year of the reign of Her present Majesty, chapter twenty-seven, and the Act passed in the twenty-third and twenty-fourth years of Her said Majesty's reign, chapter one hundred and seven, respectively: Provided that no license granted under either of the two last-mentioned Acts for the sale of foreign wine by retail to be consumed upon the premises where the same shall be sold shall be transferred by the officers of excise, unless the assignee of such license shall be duly licensed to keep a refreshment-house, nor unless he shall produce to such officers a certificate from a justice of the peace acting for the city, borough, town, or place in which the house and premises are situated, that such justice does not object to such transfer being made, and provided that no such license so transferred shall authorise the assignee to carry on the business mentioned therein for a longer period than five weeks from the date of such transfer, unless he shall in the meantime have qualified himself to become the holder of a license of the like kind according to the provisions of the said respective Acts.

**23 & 24
Vict. c. 27,
s. 16.**

A list of licenses
to be kept by
collectors and
supervisors for
inspection of
the justices,
and copies of
the list to be
transmitted to
the justices'
clerk.

16. A list or register of every license granted under the authority of this Act, specifying the name and place of abode of every person licensed, and the name and description of the house for which such license shall be granted, and whether the license shall be to keep a refreshment-house or for the sale of wine therein, shall be kept at the office or dwelling-house of

every collector and supervisor of excise in their respective collections and districts; and such list or register shall at all times be produced to and shall be open to the inspection and perusal of any justice of the county or place where such license shall be granted and where such house shall be situate, and a copy of such list and register shall, once in every six months, be transmitted by every collector and supervisor of excise to the clerk of the magistrates for the district in which such license shall be granted, and any copy or extract of or from such list or register which shall be at any time required by the clerk to the said justices shall be given to him by such collector or supervisor whenever thereto required.

23 & 24
Vict. c. 27,
s. 16.

S. 11. Refreshment-house licenses granted between March 31 and May 1 are dated April 1; when granted at other times they bear the date of the day on which they are granted, and are effective until April 1 of the following year, being renewable annually on payment of the duty imposed, (24 & 25 Vict. c. 91, s. 9, p. 268).

S. 12. This section provides for the continuation of the business on the death of the licensed person, by the personal representatives, or the widow or child of the deceased licensee in the same premises, without taking out a fresh license or the payment of further duty, following the practice under the Beerhouse Acts, (*see* 3 & 4 Vict. c. 61, s. 8, p. 247).

S. 15. Power is given by this section to the excise authorities to transfer licenses to the personal representatives, wife, child or assignee of a licensed person removing from the licensed premises, in the same way that licenses are transferred under 6 Geo. IV, c. 81, s. 21, p. 164. A certificate from a justice of the district in which the premises are situated, stating that he has no objection to the transfer, must be produced to the proper authorities.

S. 16. A register of licenses must be kept at the office of the collector and supervisor of excise in the district as in the case of beerhouse licenses, (11 Geo. IV, and 1 Will. IV, c. 64, s. 2, p. 235), but a copy of the register need be sent only once in six months to the justices' clerk for the district.

SHOPKEEPERS' AND WINE DEALERS' RETAIL
OFF-LICENSE.

23 & 24
Vict. c. 27,
s. 3.

Every person
keeping a shop
entitled to take
out a license to
retail wine not
to be consumed
on the premises.

3. Every person who shall keep a shop for the sale of any goods or commodities other than foreign wine, or who shall have taken out a license as a dealer in wine (except persons expressly disqualified by this Act), shall, without producing or having any other license or authority, be entitled to take out a license under this Act to sell by retail, and in reputed quart or pint bottles only, in such shop foreign wine not to be consumed on the premises where sold, anything in any former Act to the contrary notwithstanding.

S. 3. A person keeping a shop for the sale of any goods including intoxicating liquors, (24 & 25 Vict. c. 91, s. 10, p. 268, *R. v. Bishop*, 50 J.P. 167) other than wine, or a licensed dealer in wine, is entitled to take out a license to sell wine by retail in such shop not to be consumed on the premises in reputed quart or pint bottles. It was held in *R. v. Bishop, ubi supra*, that the holder of a spirit dealer's retail license to sell spirits in bottles and of a wholesale beer dealer's license authorising the sale of beer in four and a half gallon casks, was a person keeping a shop for the sale of goods other than foreign wine within s. 3, *supra*. A certificate of justices is necessary for this license, (32 & 33 Vict. c. 27, s. 4). The duty is £2 10s. (43 & 44 Vict. c. 20, s. 41, p. 207) for this license, and £3 for a beer and wine "off" license, (s. 42, *ibid*, p. 208). The latter license expires on October 10, (s. 42 (2), *ibid*, p. 208). Wine extends to sweets, (38 & 39 Vict. c. 23, s. 9), and see 23 & 24 Vict. c. 27, s. 21, p. 258, as to "wine." With regard to a license for sweets alone, see notes at p. 164.

The notes to 23 & 24 Vict. c. 27, s. 11, *et seq.*, p. 193, as to the date and expiration of refreshment-house licenses, etc., are applicable to licenses under this section. As to the effect of conviction for felony or sale of spirits without a license, entry with the excise officers, and penalties for sale of spirits, see 23 & 24 Vict. c. 27, s. 22, and notes, p. 190, which are applicable to the above license.

On an application for this license the rateable value of the premises is immaterial, (*R. v. Bedwellty J.J.*, 38 J.P. 807). 23 & 24
Vict. c. 27,
s. 3.

See 52 & 53 Vict. c. 42, s. 23, as to tobacco and snuff.

WINE DEALER'S LICENSE.

2.

6 Geo. IV,
c. 81, s. 2.

WINE.

Every dealer in foreign wine who shall not have an excise license for retailing spirits, and a license for retailing beer

Wine dealer's
license.

£10 0s. 0d.

S. 2. A person holding a wine dealer's license under this section is entitled to sell wine not to be consumed on the premises by retail as well as wholesale. A license for the sale of wine by retail for consumption on the premises could only be granted under 6 Geo. IV, c. 81, s. 14, p. 162, to a person producing an "on" license for the sale of beer, cider, and perry by retail, under s. 13, *ibid*, p. 162, and a justices' license under 9 Geo. IV, c. 81, was necessary for the license under s. 13, *ibid*, and consequently for that under s. 14, *ibid*. Under these circumstances s. 2, *supra*, makes a distinction between a wholesale and retail dealer in wine not licensed to sell beer by retail for consumption on the premises under s. 13, *supra*, and therefore disqualified for the sale of wine except for "off" consumption, and a retailer of wine having a beer license under s. 13, *supra*. S. 14, 6 Geo. IV, c. 81, is repealed in so far as it relates to keepers of refreshment-houses licensed to retail wine for consumption on the premises by 39 & 40 Vict. c. 16, s. 4, but wine dealers are not affected and may consequently sell wine by retail for consumption off the premises only. There is no distinction in 6 Geo. IV, c. 81, s. 2, between a license to sell wholesale or retail, (*Palmer v. Thatcher*, 3 Q.B.D. 346 ; 42 J.P. 213 ; 47 L.J.M.C. 54 ; 37 L.T. 784 ; 26 W.R. 314).

A certificate of justices is not necessary for obtaining this license, (Licensing Act, 1872, s. 73, p. 155, *Palmer v. Thatcher, ubi supra*).

The duty on this license is increased to £10 10s., (3 & 4 Vict. c. 17, s. 1), and the date of expiration is July 5, (6 Geo. IV, c. 81, s. 16, p. 172).

Sweets are included in this license, (38 & 39 Vict. c. 23, s. 9, p. 340).

SPIRIT DEALER'S ADDITIONAL RETAIL LICENSE.

24 & 25
Vict. c. 21,
s. 2.

Power to
licensed dealers
in spirits taking
out an addi-
tional license to
retail and send
out foreign or
British spirits
in less quan-
tities than two
gallons.

2. Any person duly licensed as a dealer in spirits in England may take out an additional license authorising him to sell by retail foreign wine or British spirits in any quantity not less than one reputed quart bottle, or, as to foreign liqueurs, in the bottles in which the same may have been imported, not to be drunk or consumed on the premises.

S. 2. Under this section a person licensed as a dealer in spirits under 6 Geo. IV, c. 81, s. 2, and 3 & 4 Vict. c. 17, s. 1, may take out an excise license for the sale by retail of spirits or liqueurs in any quantity not less than one reputed quart bottle, or, as to foreign liqueurs, in the bottles in which the same has been imported, for consumption off the premises.

A sale by retail under this license may not take place without a justices' license authorising such sale, unless the premises are occupied and used exclusively for the sale therein of intoxicating liquor, (Licensing Act, 1872, s. 68, p. 318).

See as to spirits, 23 & 24 Vict. c. 27, s. 21; and 6 Geo. IV, c. 81, s. 15.

The duty on this license is £3 3s. (24 & 25 Vict. c. 21, s. 1, Sched. A.). A license, similar to the above, for the sale of foreign liqueurs alone, may be obtained under 11 & 12 Vict. c. 121, ss. 9-11, on payment of £2 2s. excise duty, expiring on July 5, s. 11, *ibid.*

The words "retailers of spirits" in 43 & 44 Vict. c. 20, s. 43, do not apply to dealers in spirits under s. 3, *supra*.

These licenses expire on July 5, (6 Geo. IV, c. 81, s. 16, and see 24 & 25 Vict. c. 21, s. 4). See 52 & 53 Vict. c. 42, s. 23, as to tobacco and snuff licenses.

A covenant not to use premises "as an inn, public-house or taproom, or for the sale of spirituous liquors" was held to have been broken by the sale of spirituous liquors in bottle under this license, (*Feilden v. Slater*, L.R. 7 Eq. 523; 38 L.J.Ch. 379; 20 L.T. 485; 17 W.R. 485).

OCCASIONAL LICENSE.

13. It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it conducive to public convenience, comfort, and order, and with the consent in writing of two justices of the peace (usually acting at the petty sessions for the petty sessional division within which the place of sale is situate), to authorise any officer of excise to grant to any person who shall be duly authorised to keep a common inn, ale-house, or victualling house, and who shall have taken out the proper excise licenses to sell therein beer, spirits, wine or tobacco, an occasional license under this Act empowering him to sell the like articles for which he shall have taken out such licenses as aforesaid at any such other place, and for and during such space or period of time, as the said commissioners shall approve, and as shall be specified in such occasional license; and any person who shall have taken out such occasional license shall not be liable to any penalty or forfeiture whatever by reason or on account of his selling the articles mentioned in the said license during the time and at the place specified therein; provided that no such occasional license shall authorise the sale of any beer, spirits or wine, except during the hours after sunrise and before sunset; and provided that the said license shall not protect any such person in the sale of any of the articles herein mentioned, unless he shall at the time of such sale produce such license when requested to do so by any officer of excise, or by any constable or police officer; nor shall any such license be granted for the sale of any of the articles herein mentioned on any Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving.

25 & 26
Vict. c. 22,
s. 13.

So much of any Act as permits sale of beer at fairs, &c., without license repealed. Occasional license may be granted to victuallers to sell beer, spirits, &c., at such time and place as the Commissioners of Inland Revenue shall approve.

26 & 27
Vict. c. 33,
s. 20.

Alteration of
the law relating
to occasional
licenses.

20. Whereas it is expedient to alter and amend the conditions and restrictions upon and under which occasional licenses to sell beer, spirits, or wine may be granted and used, as provided by the thirteenth section of the Act passed in the twenty-fifth and twenty-sixth years of Her Majesty's reign, chapter twenty-two: Be it enacted as follows:

1. That the consent of one justice of the peace, as in the said section mentioned, only, shall be necessary:
2. That the hours during which such occasional license shall authorise the sale of any beer, spirits, or wine shall extend from sunrise to one hour after sunset:
3. That upon the occasion of any public dinner or ball it shall be lawful for the person who shall have obtained an occasional license under the provisions of the said Act to sell the said liquors during such hours before or after sunrise or sunset as shall be allowed and specified in that behalf in the consent to be given by the justice of the peace for the granting of such occasional license.

L.A. 1874,
s. 19.

Occasional
licenses,—
extension of
time for
closing.

19. Whereas by the twentieth section of the Act of the session of the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, chapter thirty-three, it is provided that the hours during which an occasional license shall authorise the sale of any beer, spirits, or wine shall extend from sunrise until one hour after sunset: Be it enacted, that the said section shall be construed as if in place of the words "sunrise until one hour after sunset" there were inserted the words "such hour not earlier than sunrise until such hour not later than ten o'clock at

“night as may be specified in that behalf in the consent
 “given by the justice for the granting of such occasional
 “license.”

**L.A. 1874,
 s. 19.**

5. It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it necessary for the accommodation of the public, to authorise any officer of excise to grant (upon payment of the respective duties in that behalf mentioned in Schedule (B) to this Act) an occasional license in the several and respective cases hereinafter mentioned; (that is to say,) to any person who shall have taken out an excise license under 23 Vict. c. 27, and 23 & 24 Vict. c. 107 respectively, to keep a refreshment-house, or to sell by retail in a refreshment-house foreign wines to be consumed therein; or an excise license under 4 & 5 Will. IV, c. 85, to retail beer to be drank or consumed in or upon the house or premises where sold; . . . and every such occasional license shall authorise any such person as aforesaid to exercise and carry on the same trade and business as he shall be authorised to carry on by virtue of the license granted under the said Acts respectively as aforesaid at any such place (other than the place for which his original license was granted), and for and during such space or period of time, not exceeding three consecutive days at any one time, as the said commissioners shall approve, and as shall be specified in such occasional license: Provided that the said occasional license shall not protect any such person in the carrying on of any such trade or business as aforesaid unless he shall produce such license whenever requested so to do by any officer of excise, or by any constable or police officer, at the time of exercising such trade or business; and provided also, that the conditions and restrictions contained in 26 & 27 Vict. c. 33, s. 20, relating to occasional

**27 & 28
 Vict. c. 18,
 s. 5.**

Occasional licenses may be granted to persons who have taken out licenses under 23 & 24 Vict. cc. 27 and 107 (refreshment-houses and wine retailers); under 4 & 5 Will. IV, c. 85 (beer retailers).

27 & 28
Vict. c. 18,
s. 5. licenses, shall apply to the occasional licenses to be granted under this Act.

SS. 13, 20, 19 and 5. The persons to whom excise occasional licenses may be granted are the following :—

1. A person holding a general excise license under 6 Geo. IV, c. 81, ss. 13, 14, and 43 & 44 Vict. c. 20, *see* p. 162, for which a justices' license under 9 Geo. IV, c. 61, is necessary.
2. A person licensed under 6 Geo. IV, c. 81, s. 13, p. 162, having previously obtained a justices' license under 9 Geo. IV, c. 61.
3. A person licensed under the Beerhouse Acts, (11 Geo. IV, and 1 Will. IV, c. 64 ; 4 & 5 Will. IV, c. 85 ; 3 & 4 Vict. c. 61) for the sale of beer for consumption on the premises, *see* p. 174.
4. A licensed refreshment-house keeper under 23 & 24 Vict. c. 27, s. 6, and 24 & 25 Vict. c. 91, s. 8, *see* p. 186.
5. A person holding a refreshment-house keeper's wine license under 23 & 24 Vict. c. 27, s. 7, *see* p. 188.

These licenses empower the persons to whom they are granted to carry on the business originally licensed at such place and for so long a time, not exceeding three days, as the commissioners may approve, from an hour not earlier than sunrise until an hour not later than 10 p.m., specified in the justices' consent.

The holder of a publican's license under 9 Geo. IV, c. 61, is unable to obtain an occasional license for Sunday, Christmas Day, Good Friday, or a day appointed for public fast or thanksgiving (s. 13, *supra*).

A similar restriction does not appear to be imposed in the case of other persons holding these licenses.

It appears that holders of publicans' licenses under 9 Geo. IV, c. 61, may obtain occasional licenses for a period not exceeding six days, (*see* s. 19, *supra*) ; but no express provision to this effect is to be found in the statutes.

The occasional license to be granted under 27 & 28 Vict. c. 18, s. 5, to persons holding retail wine and beer licenses is subject to the conditions and restrictions in 26 & 27 Vict. c. 33, s. 20.

The last mentioned section refers to 25 & 26 Vict. c. 22, s. 13, which limits the period of the license to three days.

By s. 20 (1), *supra*, the consent of only one justice is necessary; and note the alteration of the closing hours prescribed by s. 20 (2), *supra*, by Licensing Act, 1874, s. 19, *supra*.

As to the duty on publicans' occasional licenses under 9 Geo. IV, c. 61, *see* 26 & 27 Vict. c. 33, s. 19, p. 272; as to others, *see* 27 & 28 Vict. c. 18, Sched. B., p. 275.

Persons selling liquor at fairs or races without occasional licenses are guilty of selling without a license within Licensing Act, 1872, s. 3, p. 96; Licensing Act, 1874, s. 18, p. 31.

THEATRE LICENSES.

7. It shall be lawful for the commissioners and officers of excise, and they are hereby authorised and empowered, to grant retail licenses to any person to sell beer, spirits, and wine in any theatre established under a royal patent, or in any theatre or other place of public entertainment licensed by the Lord Chamberlain or by justices of the peace, without the production by the person applying for such license or licenses of any certificate or authority for such person to keep a common inn, alehouse, or victualling house; anything in any Act or Acts to the contrary notwithstanding.

5 & 6 Will.
IV, c. 39,
s. 7.

Licenses may be granted to sell beer, spirits and wine in theatres, &c., without the production of a certificate.

S. 7. Nothing in the Licensing Act, 1872, affects the sale of intoxicating liquor by proprietors of theatres, (*see* that Act, s. 72 (4), p. 154). S. 7 does not extend to a place of public entertainment licensed by justices for music and dancing under 25 Geo. II, c. 36, (*R. v. Commissioners of Inland Revenue*, 21 Q.B.D. 569).

A justices' certificate is not necessary for this license, *see Gallagher v. Rudd* (1898), 1 Q.B. 114; p. 158.

As to the duty payable on these licenses, *see* 43 & 44 Vict. c. 20, s. 43 (1), p. 205. The duty on the sale of spirits in any theatre must not exceed £20, s. 43 (5), *ibid*.

LICENSES FOR PACKET-BOATS.

9 Geo. IV,
c. 47, s. 1.

Commander,
&c., of vessels
and packets,
carrying
passengers from
one part of the
United King-
dom to another,
may be licensed
by the Com-
missioners of
Excise to retail
wine, beer, &c.,
on board such
vessels.

1. . . . From and after the 5th day of July, 1828, it shall be lawful for the Commissioners of Excise in England . . . at any time to grant a license to any master or commander of any packet, boat, or other vessel employed for the carriage and conveyance of passengers from one part of the United Kingdom to another or other parts thereof, or to any other person belonging to any such packet, boat, or vessel, who shall be nominated and approved of by the owner or owners, or director or directors thereof, residing in England . . . , such nomination and approval being signified by their writing and subscribing a certificate or declaration, to be delivered by them to the Commissioners . . . of Excise of that part of the United Kingdom in which the owner or owners, director or directors, reside, or to such person as such commissioners in England, . . . shall . . . appoint for that purpose, to provide for and to supply, retail, and sell to the passengers on board such vessel, to be consumed by them in and on board thereof during the voyage on which such passengers shall be then carried and conveyed, foreign wine, strong beer, cider, perry, spirituous liquors, and tobacco; and such license shall continue in force until the 5th day of July next ensuing the date thereof; and such license shall be transferable, by an indorsement thereon of such transfer, subscribed by the person to whom and in whose name the same shall have been granted, his executors or administrators, or by any assignee thereof, his executors or administrators, to any other master or commander or any other person of or belonging to the said vessel, or in case of the loss or breaking up of any such vessel before the expiration of any such license, to the master, commander, or any

Licenses
transferable.

other person of or belonging to any other vessel of the same owner or owners, or company or companies, substituted in lieu of the said vessel in respect of which such license was granted, and nominated and approved of by the owner or owners of such vessels, or the director or directors of such company or companies, such nomination, approval, and transfer being signified by the subscription of such owner or owners as aforesaid, or their executors, administrators, or assigns, or of such director or directors, to such indorsement; and every such license shall from year to year be renewed before the expiration of the license granted for the preceding year, and shall fully authorise and empower the person therein named, or his assignee, to supply, retail, and sell foreign wine, beer, cider, perry, spirituous liquors, and tobacco, or any of them, to be consumed in or on board of such vessel by the passengers thereof, during any voyage on which such license shall continue in force; any thing in any Act or Acts in force immediately before the passing of this Act to the contrary notwithstanding.

9 Geo. IV,
c. 47, s. 1.

To be renewed
yearly.

45. (1.) The duty now charged upon a license to supply, retail, and sell foreign wine, strong beer, cider, perry, spirituous liquors and tobacco to passengers on board any packet-boat or other vessel employed for the carriage and conveyance of passengers, to be consumed in or on board such boat or vessel, shall cease to be payable, and there shall be granted and paid the following duties of excise, (that is to say,)

43 & 44
Vict. c. 20,
s. 45.

Duties on
licenses for the
sale of liquors
and tobacco in
boats.

Upon a license to be taken out for the sale of spirits, wine, beer, and tobacco to be consumed on board a boat or vessel of any description employed for the carriage and conveyance of persons going as passengers from any place in the United Kingdom to

^{43 & 44}
 Vict. c. 20,
 s. 45. any other place in the United Kingdom or going from
 and returning to the same place on the same day,—

Duty.

If the license is to be in force from	£	s.	d.
the day of the date thereof until			
the 31st day of March next en-			
suing	5	0	0

If the license is to be in force for one			
day only	1	0	0

(2.) Such licenses shall be granted under, and be subject to the enactments contained in the Act 9 Geo. IV, c. 47, as amended by s. 10 of the Act 4 & 5 Will. IV, c. 75, so far as such enactments are consistent with this Act and the terms of the licenses respectively.

S. 1. This section empowers the Commissioners of Excise, or any officer of excise authorised by them for that purpose, (4 & 5 Will. IV, c. 75, s. 10), to grant licenses to the master or commander of vessels conveying passengers from one part of the United Kingdom to another, or to other persons belonging to such vessels and nominated by the owners, to retail foreign wine, strong beer, cider, perry, spirituous liquors and tobacco for the consumption of such passengers during the voyage. As to what is a "voyage" see *Valente v. Gibbs*, 6 C.B.N.S. 270; 28 L.J.C.P. 229; 33 L.T.O.S. 146; 7 W.R. 500; *Barker v. McAndrew*, 18 C.B.N.S. 759; 34 L.J.C.P. 191; 12 L.T. 459; 13 W.R. 779.

The license may be transferred by indorsement by the person to whom it has been granted, or his executors or assignee to the master of, or other person belonging to the vessel, and in case of the loss or breaking up of the vessel during the currency of the license, the license may be similarly transferred to the master of, or other person belonging to another vessel of the same owners, substituted for that so lost or broken up. The owners must nominate and approve of the transferee and signify their approval by signature on the indorsement. The license may be renewed during the currency of the existing license. The penalty for selling such liquors as are authorised to be sold under this section without a license is £10, (9 Geo. IV, c. 47, s. 3).

S. 45 (1.). This section extends s. 1, *supra*, to vessels going from and returning to the same place within the

United Kingdom on the same day. The license may be in force for one day only, in which case the duty is £1. Otherwise it will run from the day of which it bears date to March 31 following, and the duty will be £5.

See as to vessels at anchor within the Metropolitan police district, 5 & 6 Vict. c. 44, s. 5, p. 84.

The Licensing Act, 1872, does not affect the sale of liquor in packet boats, s. 72, (5), p. 155.

DUTY ON EXCISE LICENSES.

43. (1.) On and after the first day of July one thousand eight hundred and eighty, in lieu of the duties of excise now payable on licenses to be taken out by retailers of spirits in the United Kingdom, there shall be charged and paid the duties following; (that is to say),

43 & 44
Vict. c. 20,
s. 43 (1).

Alteration of
duties on
licenses to
retailers of
spirits.

				Duty.		
				£	s.	d.
If the annual value of the dwelling-house in which the retailer shall reside or retail spirits, together with the offices, courts, yards, and gardens therewith occupied, is under 10%.				4	10	0
Is 10%.	and under 15%.	.	.	6	0	0
„ 15%.	„ 20%.	.	.	8	0	0
„ 20%.	„ 25%.	.	.	11	0	0
„ 25%.	„ 30%.	.	.	14	0	0
„ 30%.	„ 40%.	.	.	17	0	0
„ 40%.	„ 50%.	.	.	20	0	0
„ 50%.	„ 100%.	.	.	25	0	0
„ 100%.	„ 200%.	.	.	30	0	0
„ 200%.	„ 300%.	.	.	35	0	0
„ 300%.	„ 400%.	.	.	40	0	0
„ 400%.	„ 500%.	.	.	45	0	0
„ 500%.	„ 600%.	.	.	50	0	0
„ 600%.	„ 700%.	.	.	55	0	0
„ 700%.	or above	.	.	60	0	0

(2.) The holder of a license to retail spirits chargeable with duty under this Act shall not be required to

43 & 44
Vict. c. 20,
s. 43.

take out any further or other excise license to enable him to sell beer or wine by retail. The holder of such license shall not be liable for any per-centage, discount, or other charge more than the amount stated in the Act.

(3.) Any person applying for a six days' and early closing license for the sale of spirits as an auxiliary only to his business as a restaurateur or eating-house keeper, and not keeping an open drinking bar, shall be entitled to his license at a sum not exceeding thirty pounds, no such reduction to be made unless the licensing justices shall have certified by indorsement on their certificate that the nature of the business carried on by the applicant justifies the reduced scale of charge.

(4.) Where in the case of premises of the value of fifty pounds or upwards it shall be proved to the satisfaction of the commissioners that the premises are structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and are mainly so used, the amount of duty to be paid on a license to retail spirits shall not exceed twenty pounds. Provided that the relief under this sub-section shall not be given in case any portion of the premises is set apart and used as an ordinary public-house for the sale and consumption therein of liquors, and the annual value of such portion, in the opinion of the commissioners, exceeds twenty-five pounds.

(5.) The amount of duty to be paid for a license to retail spirits in any theatre granted under the provisions contained in the seventh section of the Act of the fifth and sixth years of the reign of King William the Fourth, chapter thirty-nine, shall not exceed twenty pounds.

(6.) The expression "retailers of spirits," as used in this section, does not include a spirit grocer in Ireland, as defined by section eighty-one of the Licensing Act,

1872, or a dealer in spirits selling spirits in bottle under an additional license authorising him in that behalf, or a grocer in Scotland as defined by section two of the Public Houses (Scotland) Act, 1853.

43 & 44
Vict. c. 20,
s. 43.

41. On and after the first day of July one thousand eight hundred and eighty, in lieu of the duties of excise now payable on the licenses mentioned in this section (except in the case of a license to sell wine by retail to be taken out by a grocer in Scotland), there shall be charged and paid the duties following; (that is to say,)

43 & 44
Vict. c. 20,
s. 41.

Alteration of
the duties on
certain excise
licenses.

	Duty.		
	£	s.	d.
On a license to be taken out by a person for the selling of cider by retail in England	1	5	0
On a license to be taken out by a retailer of sweets in the United Kingdom	1	5	0
On a license to be taken out by a person for the selling by retail in the United Kingdom of beer to be consumed on the premises	3	10	0
On a license to be taken out by a person for the selling by retail in England of beer not to be consumed on the premises	1	5	0
On a license (additional) to be taken out by a licensed dealer in beer in England, or Ireland, authorising him to sell by retail beer not to be consumed on the premises	1	5	0
On a license to be taken out to sell wine by retail to be consumed on the premises	3	10	0
On a license to be taken out by any person in England, or Ireland, for the sale by retail, in any shop, of wine not to be consumed on the premises	2	10	0

43 & 44
Vict. c. 20,
s. 42.

Duties on
licenses for the
retailing of beer
and wine.

42. (1.) On and after the first day of July one thousand eight hundred and eighty, there shall be charged and paid upon licenses for the sale by retail of beer and wine to be taken out by any persons in the United Kingdom who may be authorised to obtain the same, the duties of excise following; (that is to say,)

	Duty.
	£ s. d.
On a license for the sale by retail of beer and wine to be consumed on the premises	4 0 0
On a license for the sale by retail of beer and wine not to be consumed on the premises	3 0 0

(2.) Every such license shall be in such form as the Commissioners shall direct, and shall expire in England or Ireland on the tenth day of October, and in Scotland on the fifteenth day of May in each year.

S. 43 (2.). Under this sub-section the holder of an excise license to retail spirits is entitled without further license to retail beer, ale, porter, etc., (43 & 44 Vict. c. 20, s. 2, and 48 & 49 Vict. c. 51, s. 4), and cider, perry, wine and sweets, (43 & 44 Vict. c. 20, s. 40). It follows, therefore, that the duties paid by a holder of a spirits license are sufficient to cover the sale of all intoxicating liquors. *See R. v. Roper*, 58 J.P. 512; 63 L.J.M.C. 68; 70 L.T. 409.

Hotel-keepers, retailers of intoxicating liquor, and refreshment-house keepers are not required to take out licenses under 32 & 33 Vict. c. 14, for servants wholly employed by them for the purpose of their business, (36 & 37 Vict. c. 18, s. 4).

S. 43 (4.). As to the manner of ascertaining the annual value, *see* 6 Geo. IV, c. 81, s. 5, p. 210; 4 & 5 Will. IV, c. 75, s. 9; and *see* also 32 & 33 Vict. c. 67, ss. 45, 76, as regards the Metropolis.

S. 43 (5.). *See*, as to theatre licenses, 5 & 6 Will. IV, c. 39, s. 7, p. 201.

S. 41. *See* s. 40, *ibid*, p. 350, as to the meaning of "sweets."

A license to a dealer in foreign wine, or to a retailer thereof, extends to sweets, made wines, mead, or metheglin without the payment of any further duty, (38 & 39 Vict. c. 23, s. 9).

APPENDIX OF STATUTES.

6 GEO. IV, CAP. 81.

An Act to repeal several duties payable on excise licenses in Great Britain and Ireland, and to impose other duties in lieu thereof; and to amend the laws for granting excise licenses. [27th June 1825.]

2. There shall be raised, levied, collected and paid unto His Majesty, in and throughout the United Kingdom of Great Britain and Ireland, the several duties of excise, or rates and sums of money hereinafter following; (that is to say,)

For and upon every excise license to be taken out by any maker, manufacturer, trader, dealer, retailer or person hereinafter mentioned within Great Britain and Ireland, to be paid by such maker, manufacturer, trader, dealer, retailer, and person respectively, the respective annual sum or duty of excise in British currency hereinafter mentioned; (that is to say,)

BEER.

£ s. d.

Every person, not being a brewer of beer, who shall sell strong beer only in casks, containing not less than $4\frac{1}{2}$ gallons imperial standard gallon measure, or in not less than two dozen reputed quart bottles at one time, to be drank or consumed elsewhere than on his, her, or their premises - - - - - 3 3 0

Every person who shall be duly authorised by justices of the peace to keep a common inn, alehouse, or victualling house, and who shall sell beer, cider, or perry by retail, to be drank or consumed in his, her, or their house or premises, if the dwelling-house in which such person shall reside or retail beer, cider, or perry, as aforesaid, at the time of taking out such license, shall not, together with the offices, courts, yards, and gardens therewith occupied, be rated under the authority of any Act or Acts of Parliament for granting duties on inhabited houses at a rent of £20 per annum or upwards, or shall not be rented or valued at such rent or annual value, or upwards 1 1 0

6 Geo. IV, c. 81.	BEER.	£ s. d.		
	And if rated, rented, or valued as aforesaid, at £20 per annum, or upwards	-	-	3 3 0
p. 195.	SPIRITS.			
	Every distiller or maker of low wines or spirits	10	0	0
	Every rectifier or compounder of spirits	-	10	0 0
	Every dealer in spirits, not being a retailer thereof	-	-	10 0 0
	WINE.—Every dealer in foreign wine, who shall not have an exeise license for retailing spirits, and a lieense for retailing beer	-	10	0 0
	* * * * *			

And for the better securing, raising, levying, and collecting of the said duties hereby granted, the same shall be under the collection and management of the commissioners of excise for the time being; and all the moneys therefrom arising shall (the necessary charges of raising and accounting for the same being deducted therefrom) be paid into the receipt of His Majesty's Exchequer, and carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

Where the duty on licenses is regulated by the rent at which a license is rated for the house tax, and any house is not so rated, the rent or annual value is to be certified by the tenant and landlord;

5. And whereas the duty upon certain licenses authorised and required to be taken out by this Act, is imposed at and according to the rent at which the premises used for the purpose or purposes mentioned in such license are rated to the duty on inhabited houses: And whereas many houses or premises in different parts of the United Kingdom, for or in respect of which such licenses may be required, may not be so rated: Be it therefore enacted, that in all cases, and in any part of the United Kingdom in which any such house or premises shall not be so rated as aforesaid, it shall and may be lawful, in order to ascertain the rent or annual value of such house or premises, for the person or persons, being the tenant or occupier thereof, who shall apply for any such license, upon which the duty is so imposed as aforesaid, to produce to the person or persons authorised to grant such license as aforesaid, a certificate, signed by himself and the owner or landlord of the said house and premises, stating the true rent paid by or for which such house or premises is or are let to such tenant or occupier; or if the true rent, by reason of the payment of any premium, or performance of any condition or otherwise, shall not be reserved and payable to the owner or landlord by the tenant or occupier of such house or premises, then

and in such case, stating the estimated rent, or true annual value of such house or premises, and the rate of duty payable by such tenant or occupier for such license, shall be paid, taken and received, according to the rent or value so certified: Provided always, that if the person or persons authorised to grant such license shall be dissatisfied with the rent or value so certified, he or they shall and is and are hereby authorised and required to adopt such other means as the commissioners of the excise shall think fit, and shall from time to time direct, to ascertain the true rent or annual value of such house or premises; and that thereupon the rate of duty payable for and upon such license shall be paid, taken, and received, according to the rent or annual value of the house and premises so ascertained as last aforesaid; any thing herein or in any other Act or Acts of Parliament to the contrary thereof notwithstanding.

6 Geo. IV,
c. 81.

and if such certificate be unsatisfactory, the commissioners of excise shall adopt other means for ascertaining the true rent or value thereof.

6. Every excise license which is authorised or required to be taken out by this Act shall be granted, and the duty thereupon imposed shall be paid in and throughout the United Kingdom in manner and form following; that is to say, if any such license shall be taken out within the limits of the head or chief office of excise in London, then such license shall be granted under the hands and seals of two or more of His Majesty's commissioners of excise, or of such person or persons as such commissioners shall from time to time employ for that purpose, and the duty thereupon imposed as aforesaid shall be paid at such head or chief office at the time of granting the license, or if such license shall be taken out in any other part of the United Kingdom without such respective limits as in that behalf respectively aforesaid, then and in every such case the same shall be granted under the hands and seals of the collector, or other person having charge of the collection, and supervisor of excise within the collection and district in which such license is taken out, and the duty thereupon imposed shall be paid to such collector or other person as aforesaid at the time of granting the license; and such commissioners of excise and the person or persons by them employed as aforesaid, and every collector or other person having charge of the collection, and supervisor as aforesaid, is and are hereby respectively authorised and required to grant and deliver every such license to the person or persons who shall apply for and be legally entitled to receive the same, forthwith upon payment of the duty or sum of money thereupon

How licenses are to be granted and duties paid.

p. 173.

6 Geo. IV, c. 81. imposed, free from all poundage, fee, gratuity, or any other payment whatsoever.

Contents of
license.

p. 171.

Partners need
not take out
more than
one license.

7. In every license to be taken out under or by authority of this Act shall be contained and set forth the purpose, trade, or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same, and the true date or time of granting such license, and . . . the place at which the trade or business for which such license is granted shall be carried on: Provided always that persons in partnership, and carrying on their trade or business in one place and set of premises only, shall not be obliged to take out more than one license in any one year, for the purpose of carrying on such trade or business.

* * * * *

No person or
persons taking
out a license
required to give
a bond.

9. Where by any Act or Acts of Parliament relating to excise licenses in force in Great Britain or Ireland on or immediately before the said 5th day of July, 1825, it is required that any person or persons taking out an excise license to exercise or carry on any trade or business therein mentioned in any part of the United Kingdom should give bond at the time of granting such license, it shall and may be lawful for such person or persons . . . to take out such license without giving bond as aforesaid . . .

No one license
to authorise any
person to carry
on his trade in
more than one
separate and
distinct set of
premises.

10. No one license taken out under or by authority of this Act, by any person or persons except . . . maltsters, shall authorise or empower such person or persons to exercise or carry on the trade or business mentioned in such license in more than one separate and distinct set of premises, such premises being all adjoining or contiguous to each other, and situate in one place, and held together for the same trade or business, and of which he, she, or they shall have made lawful entry, to exercise or carry on therein his, her, or their trade or business as aforesaid, at the time of granting such license, but that a separate and distinct license shall be taken out by all and every such person or persons as aforesaid, except as aforesaid, to exercise or carry on his, her, or their trade or business as aforesaid, at or in any other or different premises than as before mentioned: Provided always, that where the amount or rate of any such license shall depend upon the quantity of goods made or manufactured by the person or persons to whom the same is granted, such quantity shall be computed from the respective goods only made or manufactured by such person or persons

Where duty
depends on
quantity of
goods made,
only the goods
made on the
premises
licensed shall
be reckoned.

at the premises in respect of which such license is granted, and shall not include goods made or manufactured by such person or persons at any other or different premises, for which a separate and distinct license is required as above mentioned.

6 Geo. IV,
c. 81.

11. In all cases in which the house or premises in respect of which any excise license is or shall be granted shall be burnt down, or otherwise destroyed, or rendered uninhabitable by fire or other unavoidable cause or accident, it shall and may be lawful for the commissioners and assistant commissioners of excise, or collector and supervisor, or other person or persons authorised to grant licenses within the district or place in which such house or premises was or were situate, upon due notice thereof to him or them in that behalf given, to authorise and empower, by indorsement on such license, or otherwise, as the commissioners of excise shall direct, the person or persons authorised to carry on trade or business by such license at the house or premises so burnt down or otherwise destroyed or rendered uninhabitable, to carry on such trade or business at any other and different house or premises in the same district or place, of which due entry shall be thereupon made by such person or persons at the time of such removal thereto; provided always, that where such licensed person or persons as aforesaid shall be a person or persons by law required to be duly authorised by justices of the peace, to keep a common inn, alehouse, or victualling house, it shall not be lawful for the commissioners or assistant commissioners of excise, or such collector and supervisor, or other person or persons authorised to grant licenses as aforesaid, to authorise or empower such licensed person or persons as aforesaid, unless such person or persons shall, besides giving such notice as hereinbefore required, produce to such collector and supervisor, or other person or persons authorised to grant licenses as aforesaid, such authority from justices of the peace, as by law required in that behalf, to keep a common inn, alehouse, or victualling house, in the house or premises to which such person or persons shall desire to remove, in consequence of such fire or other unavoidable cause or accident as aforesaid.

Removal of the
license in case
of fire or
accident.

13. No excise license shall be granted under or by authority of this Act for the sale of any beer, or cider or perry, by retail, to be drank or consumed upon the house or premises of the person or persons applying for such license, to any person or persons who shall not produce at the time of

No license to be
granted for
selling beer or
cider by retail,
to be consumed
on the premises,
without a
certificate from
justices.

6 Geo. IV, c. 81. applying for such license a certificate or authority then in force, to him, her, or them in that behalf granted in due form of law by justices of the peace or magistrates, or other competent persons, for such person or persons applying for such licenses as aforesaid to keep a common inn, alehouse, or victualling house; and if any such license shall be granted to any person or persons other than as aforesaid, the same shall be and is hereby declared to be absolutely null and void to all intents and purposes, and the person or persons taking out the same shall be subject to all penalty or penalties to which he, she, or they would have been subject had no such license been granted.

No license to retail spirits, or foreign wines, or sweets or made wines, or mead or metheglin, to be consumed on the premises, shall be granted to any person who has not a retail beer license.

p. 163.

14. No license for the sale of any spirits *or foreign wine*, or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons who shall not have and produce a license for the sale of beer, cider, or perry, by retail, to be drank or consumed in or upon such house or premises, in that behalf granted as herein by this Act before mentioned; and if any license for the sale of any spirits *or foreign wine*, or sweets or made wines, or mead or metheglin, by retail, to be drank or consumed in or upon the house or premises where sold, shall be granted to any person or persons other than as aforesaid, such license shall be and is hereby declared to be absolutely null and void to all intents and purposes; and all and every such person or persons as aforesaid shall be subject and liable to all and every penalty and penalties imposed upon persons selling spirits *or foreign wines*, or sweets or made wines, or mead or metheglin, by retail without license.

Licenses taken out by brewers and distillers, and by publicans, as retailers of beer, spirits, or foreign wine, or sweets or made wines, or mead, or metheglin, shall expire on the 10th of October in each year, and all other licenses on the 5th day of July; licenses to be renewed yearly, and notice for renewal given by the trader

16. All excise licenses taken out in the United Kingdom by . . . any person or persons who shall be duly authorised by justices of the peace to keep a common inn, alehouse, or victualling house, and who shall take out a license for selling beer, cider, or perry, by retail, to be drank or consumed in the house or premises, or for selling spirits or foreign wine, or sweets or made wines, or mead or metheglin, by retail, under or by virtue of this Act, or any other law or laws of excise, shall continue and be in force from the day of the date of such licenses respectively, until the 10th day of October following, on which day in each year all such excise licenses (except as aforesaid) shall expire; and all other excise licenses throughout the United Kingdom, except those above specified, shall continue and

be in force from the day of the date of such licenses respectively, until the 5th day of July following, on which day in each year all such licenses as last aforesaid shall expire ; and all and every person or persons who shall have taken out any such license as aforesaid, and who shall wish or intend to continue the trade or business for which such license was granted for any longer space of time, shall take out a fresh license for the year following, to expire on one of such days as herebefore mentioned, according to the nature of the license by him, her, or them taken out, and shall so renew the same from year to year, so long as he, she, or they shall continue such trade or business, and shall pay in each and every such case the duty thereupon imposed at such time and place as hereinbefore mentioned ; and every such person or persons shall in every such case as aforesaid give notice in writing at least twenty-one days before the expiration of the current license to him, her, or them before granted, of such his, her, or their intention to continue the trade or business for which such license was before granted to the collector or supervisor, or other person or persons authorised to grant licenses for the district or place at which such trade or business shall be carried on ; and in cases where the excise license is so renewed as aforesaid, and such notice as aforesaid shall have been given, the new license shall bear date from the day or date of the expiration of the current licenses before granted ; but in case where such notice shall not have been given as aforesaid, and in all other cases than as aforesaid, the license shall bear date from the day of the date of the application made for such license, although and notwithstanding any such license may be delivered at any day subsequent to the date of such application.

6 Geo. IV,
c. 81.

twenty-one days at least before the expiration of his current license ; new license, if regularly renewed, to bear date from the expiration of the former license if granted afterwards ; or otherwise to bear date from date of application.

p. 173.

17. If any person or persons shall commence or begin to exercise or carry on any trade or business, for the exercise or carrying on of which an excise license is required, such person or persons not having before taken out any such license, it shall and may be lawful for the person and persons authorised to grant licenses, to grant such license for the remainder of the current year in which such license shall be taken out, ending on the 5th day of July or on the 10th day of October next following the date of the license taken out by such person or persons, according to the nature of such license, upon payment of such proportional part of the duty thereupon imposed, in such manner as hereinafter mentioned ; that is to say, if such license shall be taken out at any time within the first quarter of the current

Licenses may be granted to new beginners for a proportional part of the year, on payment of proportional part of the duty according to the quarter of the year in which the license shall be taken out.

p. 169.

6 Geo. IV, c. 81. year in which such license shall be taken out, and ending as aforesaid, or in the quarter expiring on the 10th day of October, or on the 5th day of January, next following the date of such license, according to the nature of the license taken out, that then the person or persons taking out such license shall pay the whole duty imposed upon such license, in such manner as hereinbefore mentioned at the time of granting such license; and if such license shall be taken out at any time within the second quarter of such current year, and ending as aforesaid, or in the quarter expiring on the 5th day of January, or on the 5th day of April, next following the date of such license, according to the nature of the license taken out, the person or persons taking out such license shall pay three-fourth parts of the duty imposed upon such license, in such manner as hereinbefore mentioned at the time of granting such license; and if such license shall be taken out at any time within the third quarter of such current year, and ending as aforesaid, or in the quarter expiring on the 5th day of April, or on the 5th day of July, next following the date of such license, according to the nature of the license taken out, one half of the duty imposed upon such license shall be paid in such manner as hereinbefore mentioned at the time of granting such license; and finally, if such license shall be taken out at any time within the last quarter of such current year, and ending as aforesaid, or in the quarter expiring on the 5th day of July, or on the 10th day of October, next following the date of such license, according to the nature of the license taken out, that then a fourth part only of the duty imposed upon such license shall be paid in such manner as hereinbefore mentioned at the time of granting such license.

Persons who have been licensed before shall not in taking out a new license be considered beginners, unless the old license expired at least two years before the new license is taken out.

p. 170.

18. No person or persons who shall at any time have taken out an excise license for the exercise or carrying on of any trade or business for which an excise license is required, and who shall in any subsequent year after such license shall have expired take out a new license for the carrying on the same trade or business, whether on the same or on other or different premises from those on which he, she, or they before carried on such trade or business, shall be deemed or taken to be a person or persons commencing or beginning to exercise or carry on such trade or business, within the intent and meaning of this Act, so as to entitle him, her, or them to take out such license, upon payment of a proportional part only of the duty thereupon

imposed ; but all and every such person or persons as aforesaid shall pay the whole of such duty, unless the period of time between the expiration of the former license and the taking out of the new license shall at the least be a period of two years.

6 Geo. IV,
c. 81.

21. Upon the death of any person or persons licensed under or by virtue of this Act, or any law or laws of excise, or upon the removal of any such person or persons from the house or premises at which he, she, or they were authorised by such license to exercise or carry on the trade or business mentioned in such license, it shall and may be lawful for the person and persons authorised to grant licenses, to authorise and empower, by indorsement on such license, or otherwise, as the commissioners of excise shall direct, the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such license, in or upon the same house or premises at which such person or persons as aforesaid deceased or removing as before mentioned, by virtue of such license to him, her, or them in that behalf granted, before exercised or carried on such trade or business for and during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term and until expiration thereof : Provided always, that a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid, shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted ; and provided also, that no such authority as aforesaid shall be granted for the sale of beer, cider, or perry, or sweets, or made wines or sweets, mead or metheglin by retail, to be drank or consumed in or upon the house or premises for which the original license was granted, except and in such cases where a proper certificate granted and given by a justice of the peace or magistrate, or other competent person according to the law, made after the death or removal of the former occupier or occupiers of the premises shall have taken place, shall be produced, approving of the person or persons to whom such certificate shall be given or granted as aforesaid.

Licenses may be transferred to the executors, wife, child, or assignee of the person licensed.

Fresh entries of premises to be made.

Transfer of publican's retail beer license to be made only on justices' certificate.

**6 Geo. IV,
c. 81.**

Persons disabled by conviction from keeping a common inn, &c., disabled from excise license to retail beer.

On prosecution certificate from clerk of the peace of conviction shall be evidence.

Penalty on clerk of the peace neglecting to give certificate.

Where the retail beer license shall become void by conviction as aforesaid, the retail spirit license shall become void also.

22. All and every person or persons who shall be disabled by any conviction from holding or having a license to keep, or from keeping a common inn, alehouse, or victualing house, shall also by such conviction be disabled from taking out and from having any excise license to sell, and from selling beer, cider, or perry by retail in any manner whatsoever, under any excise license or licenses obtained for such purpose; and if any such person shall, after such conviction as aforesaid, take out or have any excise license or licenses for any such purpose as aforesaid, the same shall and is hereby declared to be absolutely null and void to all intents and purposes; and every person who shall, after such conviction as aforesaid, sell any beer, cider, or perry by retail in any manner whatsoever, shall incur the penalty for so doing without license; and in all such cases in the prosecution for the recovery of such penalty a certificate from the clerk of the peace or person acting as such, of any such conviction as aforesaid shall on the trial in such prosecution be legal evidence thereof, which certificate such clerk of the peace or other person acting as such, is hereby authorised and required, within one week after any such conviction shall have been returned to his office, to deliver to the collector of excise, or other person or persons authorised to grant excise licenses within the district or place in which such conviction shall have taken place, setting forth a copy of such conviction signed by himself, for which he shall demand or receive no fee or reward whatsoever; and if any such clerk of the peace or other person acting as such as aforesaid, shall neglect or omit to deliver such certificate as aforesaid, he shall for every such offence forfeit the sum of ten pounds.

23. Where the license for the sale of beer, cider, or perry by retail, to be drank or consumed upon the house or premises of the person or persons to whom the same is granted shall become void, and the person or persons thereupon disabled in such manner as before mentioned by this Act, the license for the sale of any spirits or foreign wine, or sweets or made wines, or mead or metheglin by retail, to be drank or consumed upon the house or premises thereupon granted, shall become null and void also, to all intents and purposes; and in such case if the person or persons to whom the same respectively were granted shall sell any spirits or any foreign wine, or any sweets or made wines, or any mead or metheglin respectively by retail, to be drank or consumed upon the house or premises, after such conviction as

aforesaid shall have taken place in manner before mentioned in this Act, and every such license as aforesaid has thereby become void, such person or persons shall incur the penalty for selling spirits or foreign wine, or sweets or made wines, or mead or metheglin, to be consumed upon the premises by retail without license; and in all such cases, in the prosecution for the recovery of such penalty as aforesaid, such conviction shall be proved in such and the like manner as before specified by this Act in a prosecution under similar circumstances for the sale of beer, cider, or perry by retail, to be drank or consumed on the house or premises without license.

6 Geo. IV,
c. 81.

24. And whereas the periods at which justices of the peace or magistrates, or other competent persons as aforesaid, are in the practice of granting such certificates or authorities as aforesaid, to persons to keep common inns, alehouses, or victualling houses, are various, and at different times in different parts of the United Kingdom: And whereas the same do not in any manner correspond with the period at which excise licenses are granted, or for which the same continue in force; and that upon the expiration of such certificate or authority as aforesaid, the excise license to sell beer, cider, or perry by retail, to be drank or consumed upon the house or premises where sold, granted upon such certificate or authority as aforesaid expires, and the excise licenses to sell spirits, foreign wines, sweets or made wines, and mead or metheglin by retail, to be drank or consumed upon the house or premises which are granted upon such retail beer excise license do thereupon also expire; be it therefore enacted, that if the term for which any such certificate or authority as aforesaid is granted shall expire (no conviction as before mentioned having taken place) at any time within the first quarter of the current year for which such excise licenses as aforesaid respectively were granted, and no such certificate or authority shall be renewed or granted for the succeeding year, three-fourth parts of the duties thereupon respectively paid by the person or persons to whom the same respectively were granted, shall be returned to the person or persons then holding such licenses, and carrying on trade or business in such house or premises; and if such certificate or authority as aforesaid shall expire as aforesaid, at any time within the second quarter of the current year for which such licenses as aforesaid respectively were granted, and shall not be renewed or granted for the succeeding year, one-half part of the duties

Upon the expiration of the justices' authority to keep a public-house within the year before the expiration of the excise licenses granted thereupon (no conviction having taken place) a proportional part of the duties on the excise licenses shall be returned.

p. 170.

6 Geo. IV,
c. 81.

paid thereon respectively shall be returned as aforesaid; and if such certificate or authority shall so expire as aforesaid, at any time within the third quarter of the current year for which such licenses as aforesaid respectively were granted, and shall not be renewed or granted as aforesaid, then one-fourth part of the duties paid thereon respectively shall be returned as aforesaid; and the collector or other person or persons to whom the duty or duties payable on such licenses respectively was or were paid at the time of granting the same, shall and are hereby respectively authorised and required to return such sum or sums of money as aforesaid to such person or persons as aforesaid, on application to him or them being thereupon made by such person or persons for that purpose.

Parties
licensed, re-
quired to enter
their premises
for carrying on
business for
which a license
is required, to
put up over
their premises
their names,
&c.

25. All and every person or persons in the United Kingdom, required by any law or laws of excise to make entry of his, her, or their premises, in order to exercise or carry on therein any trade or business, for which an excise license is required, and who shall have taken out such license, shall paint or cause to be painted, or shall place and fix in letters publicly visible and legible, and at least one inch long, in and upon his, her, or their entered premises, his, her, or their names respectively, at full length (or where there are partners or more than one person engaged in carrying on jointly the same trade or business, the name or style of the firm or partnership), and after such name or names, the word "licensed," adding thereto the words necessary to express the purpose, or trade or business for which such license has been granted; and such person or persons shall cause such letters to be painted or placed, and fixed in some conspicuous place on the outside of the front of his, her, or their said premises, over the principal outward door or gate, or entrance door thereto, and not more than three feet from the top of such outward door or gate, or entrance door; and if any such person or persons as aforesaid shall not paint or place and fix such letters as aforesaid, or shall not preserve and keep the same so painted, placed, and fixed, or shall not repaint or renew the same as often as necessity shall require, for the purpose of keeping the same in good order and condition during the continuance of his, her, or their license, he, she, or they shall forfeit for every such offence the sum of twenty pounds; and if any person or persons not being licensed to exercise or carry on any trade or business for which a license is required by this Act, shall put or have any such letters as aforesaid upon

Penalty for
not so doing, or
on unlicensed
persons for so
doing, 20l.

his, her, or their premises, or any letters importing that he, she or they does or do exercise or carry on any such trade or business, or is or are licensed so to do, all and every such person or persons shall for every such offence forfeit the sum of twenty pounds.

6 Geo. IV,
c. 81.

26. If any person or persons shall make or manufacture, deal in, retail, or sell any goods or commodities hereinafter mentioned, or shall exercise or carry on any trade or business hereinafter mentioned for the making or manufacturing, or dealing in, retailing, or selling of which goods or commodities, or for the exercising or carrying on of which trade or business a license is required by this Act, without taking out such license as is in that behalf required, he, she, or they shall for every such offence respectively forfeit and lose the respective penalty thereupon imposed, as hereinafter follows ; (that is to say),

Penalty for
exercising
trade, &c., with-
out license.

p. 181.

. Every person not being a brewer of beer, who shall sell strong beer only in casks containing not less than four gallons and a half, or in not less than two dozen reputed quart bottles at one time, to be drank and consumed elsewhere than in his, her, or their premises. . . .
Every dealer in spirits, not being a retailer thereof ; . . .

Every dealer in foreign wine so offending
shall forfeit and lose the sum of one hundred pounds :

Penalties.

Every person who shall sell beer, cider, or perry by retail, to be drank or consumed in his, her, or their house or premises ;—Every retailer of spirits ;—
. Every retailer of foreign wine ;—Every retailer of sweets or made wines, or of mead or metheglin, so offending respectively ;—
shall respectively forfeit and lose the sum of fifty pounds.

27. If any spirits shall be sold or delivered in any quantity less than two gallons, or if any beer, wine, cider, perry, sweets, mead, or metheglin, or vinegar, or any other goods for the retail of which a license is by this Act required, shall be sold by retail in any house or premises, or in any part of any house or premises, by any person or persons unknown, or who shall not be licensed for that purpose according to this Act, the occupier of such house or premises, or part of any house or premises, where such spirits or other liquors or goods shall be so sold as aforesaid, if but one occupier only, and if more than one, then

The occupiers
of premises
where goods
are retailed
without license
by persons
unknown, shall
be deemed to be
the retailers
thereof, if
privity or con-
senting thereto,
and shall be
liable to
penalties for
sale without
license.

6 Geo. IV, c. 81. the several occupiers thereof, being privy or consenting thereto, shall be deemed and taken to be the retailer or retailers of such spirits, or other liquors or goods, and as such, shall be subject and liable to the penalties imposed upon persons for the sale of spirits, or such other liquors or goods, by retail, without license.

Penalty on licensed persons not producing their license on demand of officer, 20l.

28. If any person or persons licensed to exercise or carry on any trade or business, or make or sell any goods for which an excise license is required, shall not produce and deliver such license to be read and examined by any officer or officers of excise, within a reasonable time after such officer or officers shall demand the production thereof, such person or persons shall for each and every such offence forfeit the sum of twenty pounds.

Informers against an unlicensed trader (if the penalty cannot be recovered), to be paid such sum as the commissioners shall direct, not exceeding 10l.

29. Where any person or persons shall be lawfully convicted of any offence in carrying on any trade or business, or making or selling any goods without license, for the carrying on of which trade or business, or the making or selling of which goods a license or licenses is or are required by this Act, and the pecuniary penalty imposed for such offence shall not be paid and cannot be levied, it shall and may be lawful for the commissioners of excise to cause such reward as they shall think fit, not exceeding ten pounds in each case, to be paid to the several and respective persons who shall appear to them to be entitled thereto as informers, out of any moneys in their hands arising by any penalties or forfeitures incurred under the laws of excise.

Nothing in this Act contained to prejudice the Universities, the Vintners' Companies, or the borough of St. Albans.

30. Nothing in this Act contained shall in anywise prejudice the privileges heretofore used and enjoyed by any university in the United Kingdom of Great Britain and Ireland, or the respective chancellors or scholars of the same respectively, or their successors, or the master, wardens, freemen, and commonalty of the Vintners of the city of London, or other city or town corporate, in any part of the United Kingdom, or the mayor or burgesses of the borough of Saint Albans, in the county of Hertford, or their successors, but that they may respectively use and enjoy such privileges as they have heretofore respectively lawfully used and enjoyed the same.

9 GEO. IV, c. 47.

An Act for regulating the retail of exciseable Articles and Commodities to Passengers on board of Passage Vessels from one Part to another of the United Kingdom.
[15 July 1828.]

It shall be lawful for the commissioners of excise in England, . . . , at any time to grant a license to any master or commander of any packet, boat, or other vessel employed for the carriage and conveyance of passengers from one part of the United Kingdom to another or other parts thereof, or to any other person belonging to any such packet, boat, or vessel, who shall be nominated and approved of by the owner or owners, or director or directors thereof, residing in England, . . . , such nomination and approval being signified by their writing and subscribing a certificate or declaration, to be delivered by them to the commissioners . . . of excise of that part of the United Kingdom in which the owner or owners, director or directors, reside, or to such person as such commissioners in England, or such commissioner or commissioners . . . shall . . . appoint for that purpose, to provide for and to supply, retail, and sell to the passengers on board such vessel, to be consumed by them in and on board thereof during the voyage on which such passengers shall be then carried and conveyed, foreign wine, strong beer, cider, perry, spirituous liquors, and tobacco; and that such license shall continue in force until the 5th day of July next ensuing the date thereof; and such license shall be transferable, by an indorsement thereon of such transfer, subscribed by the person to whom and in whose name the same shall have been granted, his executors or administrators, or by any assignee thereof, his executors or administrators, to any other master or commander or any other person of or belonging to the said vessel, or in case of the loss or breaking up of any such vessel before the expiration of any such license, to the master, commander, or any other person of or belonging to any other vessel of the same owner or owners, or company or companies, substituted in lieu of the said vessel in respect of which such license was granted, and nominated and approved of by the owner or owners of such vessels, or the director or

Commander, &c., of vessels and packets carrying passengers from one part of the United Kingdom to another, may be licensed by the commissioners of excise to retail wine, beer, tobacco, &c., on board such vessels.

p. 204.

Licenses to be transferable;

9 Geo. IV,
c. 47.

and to be
renewed
yearly.

directors of such company or companies, such nomination, approval, and transfer being signified by the subscription of such owner or owners as aforesaid, or their executors, administrators, or assigns, or of such director or directors, to such indorsement; and that every such license shall from year to year be renewed before the expiration of the license granted for the preceeding year, and shall fully authorise and empower the person therein named, or his assignee, to supply, retail, and sell foreign wine, beer, cider, perry, spirituous liquors, and tobacco, or any of them, to be consumed in and on board of such vessel by the passengers thereof, during any voyage on which such passengers shall be carried and conveyed while such license shall continue in force; any thing in any Act or Acts in force immediately before the passing of this Act to the contrary notwithstanding.

Duty on
license, 1*l*.

2. At the time of granting such license as aforesaid the owner or owners, or director or directors of such packet, boat, or other vessel in respect of which such license is applied for as aforesaid, shall pay or cause to be paid to the commissioners of excise in England, . . . to whom such application shall be made, according to the residence of such owner or owners, or director or directors as aforesaid, or to the collector of excise or other person appointed as aforesaid to grant the same, a duty of one pound.

Penalty for
selling wines,
&c., without a
license, 10*l*.

3. If any person shall retail or sell, on board any packet, boat, or other vessel employed for the carriage or conveyance of passengers from one part of the United Kingdom to another part thereof, any foreign wine, strong beer, cider, perry, spirituous liquors, or tobacco, without having taken out such license as is by this Act required, every such person shall for every such offence incur and be liable to a penalty of ten pounds.

Duties to be
under the
excise.

4. The duties by this Act imposed shall be under the management of the commissioners of excise.

Moneys arising
by duties to be
carried to the
Consolidated
Fund.

5. All the moneys arising by the duties by this Act imposed (the charges for raising and accounting for the same excepted) shall from time to time be paid and carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, in like manner with other duties of excise arising from licenses.

6. Nothing in this Act contained shall extend or be construed to extend to repeal any regulation, penalty, or forfeiture contained in or imposed by any law or laws in force at the time of passing this Act, for or in respect of any person carrying, removing, hiding, concealing, or landing any spirits, or any other goods or commodities, on which the duties of excise chargeable and payable thereon have not been fully paid, or for or in respect of any vessel used or employed for that purpose ; but that all such regulations, penalties, and forfeitures shall remain in full force and virtue, this Act, or any license granted by authority thereof, in anywise notwithstanding.

9 Geo. IV,
c. 47.

Not to affect
any regulations
or penalties
respecting
smuggling.

9 GEO. IV, c. 61.

An Act to regulate the granting of Licenses to Keepers of Inns, Alehouses and Victualling Houses, in England.

[15 July 1828.]

IN every division of every county and riding, and of every division of the county of Lincoln, and in every hundred of every county, not being within any such division, and in every liberty, division of every liberty, county of a city, county of a town, city, and town corporate, in that part of the United Kingdom called England, there shall be annually holden a special session of the justices of the peace (to be called the general annual licensing meeting), for the purpose of granting licenses to persons keeping or being about to keep inns, alehouses, and victualling houses, to sell excisable liquors by retail, to be drunk or consumed on the premises therein specified ; and such meetings shall be holden in the counties of Middlesex and Surrey within the first ten days of the month of March, and in every other county on some day between the 20th day of August and the 14th day of September inclusive ; and it shall be lawful for the justices acting in and for such county or place assembled at such meeting, or at any adjournment thereof, and not as hereinafter disqualified from acting, to grant licenses, for the purposes aforesaid, to such persons as they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper.

9 Geo. IV,
c. 61.

General licens-
ing meetings to
be held
annually.

p. 3.

Time of holding
such meetings.

**9 Geo. IV,
c. 61.**

Time and place,
how to be
appointed.

Notice of
meetings to be
given.

2. In every such division or place as aforesaid there shall be holden, twenty-one days at the least before each such general annual licensing meeting, a petty session of the justices acting for such county or place, the majority of whom then present shall, by a precept under their hands, appoint the day, hour, and place upon and in which such general annual licensing meeting for such division or place shall be holden; and shall direct such precept to the high constable of the division or place for which such meeting is to be holden, requiring him, within five days next ensuing that on which he shall have received such precept, to order the several petty constables or other peace officers within his constablewick to affix or cause to be affixed on the door of the church or chapel, and where there shall be no church or chapel, on some other public and conspicuous place within their respective districts, a notice of the day, hour, and place at which such meeting is appointed to be holden, and to give to or to leave at the dwelling-house of each and every justice acting for such division or place, and of each and every person keeping an inn, or who shall have given notice of his intention to keep an inn, and to apply for a license to sell exciseable liquors by retail, to be drunk or consumed on the premises, within their respective districts, a copy of such notice.

Adjournment
of meetings.

p. 7.

3. It shall be lawful for the justices acting at the general annual licensing meeting, and they are hereby required, to continue such meeting by adjournment, to such day or days, and to such place or places within the division or place for which such meeting shall be holden, as such justices may deem most convenient and sufficient for enabling persons keeping inns within such division or place to apply for such license: Provided nevertheless, that the adjourned meeting to be holden next after such general annual licensing meeting shall not be so holden in or upon any of the five days next ensuing that on which such general annual licensing meeting shall have been holden as aforesaid; and that every adjournment of the said general annual licensing meeting shall be holden within the month of March in the counties of Middlesex and Surrey, and of August or September in every other county.

Special
sessions for
transferring
licenses to be
appointed.

p. 12.

4. The justices assembled at the general annual licensing meeting in every year, shall appoint not less than four nor more than eight special sessions, to be holden in the division or place for which each such meeting shall be holden, in the year next ensuing such general annual licensing meeting, at periods as near as may be equally distant; at which

special session it shall be lawful for the justices then and there assembled, in the cases and in the manner and for the time hereinafter directed, to license such persons intending to keep inns theretofore kept by other persons being about to remove from such inns, as they the said justices shall, in the execution of the powers herein contained, and in the exercise of their discretion, deem fit and proper persons, under the provisions hereinafter enacted, to be licensed to sell exciseable liquors by retail, to be drunk or consumed on the premises.

9 Geo. IV,
c. 61.

5. Whenever the justices shall have ordered any such adjournment of the general annual licensing meeting, or shall have appointed such special sessions as aforesaid, the day, hour, and place for holding every such adjourned meeting, and every such special session, shall be appointed by precept of the majority of the said justices, directed to the high constable, requiring notices, similar in form to those given at the general annual licensing meeting, to be affixed on the door of the church or chapel, or on some other public and conspicuous place, and to be served upon the same parties.

Notice to be given of the adjournment of the general annual licensing meeting and of the appointment of special sessions.

p. 16.

7. Whenever at any of the meetings to be holden as aforesaid for any liberty, county of a city, county of a town, city, or town corporate, there shall not be present at least two justices acting in and for any such liberty, county of a city, county of a town, city, or town corporate, who are not disqualified, it shall be lawful for the justices acting in and for the county or counties adjoining to such liberty, county of a city, county of a town, city, or town corporate, and not disqualified from acting, to act within such liberty or place, and with the justice or justices thereof, not as hereinbefore disqualified, who shall be present at any such meeting as aforesaid, for the purpose of granting or transferring licenses under, or of hearing complaints as to offences against, this Act; any law, custom, or usage to the contrary notwithstanding.

When in liberties, &c., two justices not disqualified do not attend, the county justices may act.

p. 20.

8. Nothing herein contained shall extend to give the justices of the county, or any division thereof, any power or authority for the putting of the provisions of this Act in execution within any of the Cinque Ports or either of the two ancient towns, or any of the corporate or other members or liberties of the Cinque Ports or two ancient towns; but it shall be lawful for the justices of and for each of the principal Cinque Ports and two ancient towns, and not as hereinbefore disqualified from acting, and none other, to act within and for the same, and the liberties thereof, not corporate,

Powers hereby given to the justices of the county not to extend to the cinque ports, or their members or liberties, but the justices of the cinque ports shall act therein with the justices of the members or liberties.

9 Geo. IV, c. 61. respectively, as they have been accustomed, and for them or any of them (not so as last aforesaid disqualified), to act within each of the corporate members immediately belonging or subordinate to such principal Cinque Port or ancient town, with the justice or justices of each such corporate member, (not so as last aforesaid disqualified), for the purpose of granting or transferring licenses under, or of hearing complaints as to offences against, this Act, in all such cases in which the justices of the county are herein-before empowered or authorised to act with the justice or justices of any liberty, county of a city, county of a town, city, or town corporate.

Questions respecting licenses to be determined, and licenses to be signed, by the majority of justices at the meeting.

p. 17.

9. When (at any of the meetings aforesaid) any question touching the granting, withholding, or transferring any license, or the fitness of the person applying for such license, or of the house intended to be kept by such person, shall arise, such question shall be determined by the majority of justices, not disqualified, who shall be present when such question shall arise; and every license granted under the authority of this Act shall be signed by the majority of the justices, not disqualified, who shall be present when such license shall be granted.

Any person intending to apply for a license or transfer, and hindered from attending any licensing meeting by sickness may authorise another person to attend for him.

p. 49.

12. If any person intending to apply at the general annual licensing meeting, or at any adjournment thereof, or at any special session, for any license to be granted under the authority of this Act, or for the transfer of any such license, shall be hindered by sickness or infirmity, or by any other reasonable cause, from attending in person at any such meeting, it shall be lawful for the justices there assembled to grant or transfer such license to such person so hindered from attending, and to deliver the same to any person then present, who shall be duly authorised by the person so hindered from attending to receive the same, proof being adduced to the satisfaction of such justices, who are hereby empowered to examine upon oath into the matter of such allegation, that such person is hindered from attending by good and sufficient cause.

Duration of license.

p. 58.

13. Every license which shall be granted under the authority of this Act . . . shall be in force in the counties of Middlesex and Surrey from the 5th day of April, and elsewhere from the 10th day of October, after the granting thereof, for one whole year thence respectively next ensuing, and no longer; and every license for the

purposes aforesaid, which shall be granted at any other time or place . . . than that hereby directed, except as hereinafter excepted, shall not entitle any person to obtain an excise license for selling exciseable liquors, by retail, to be drunk or consumed on the premises of the person licensed, and shall be utterly void to all intents and purposes.

9 Geo. IV,
c. 61.

14. If any person duly licensed under this Act shall (before the expiration of such license) die, or shall be, by sickness or other infirmity, rendered incapable of keeping an inn, or shall become bankrupt, . . . or if any person so licensed, or the heirs, executors, administrators, or assigns of any person so licensed, shall remove from or yield up the possession of the house specified in such license ; or if the occupier of any such house, being about to quit the same, shall have wilfully omitted, or shall have neglected to apply, at the general annual licensing meeting, or at any adjournment thereof, for a license to continue to sell exciseable liquors by retail, to be drunk or consumed in such house ; or if any house, being kept as an inn by any person duly licensed as aforesaid, shall be or be about to be pulled down or occupied under the provisions of any Act for the improvement of the highways, or for any other public purpose ; or shall be, by fire, tempest, or other unforeseen and unavoidable calamity, rendered unfit for the reception of travellers, and for the other legal purposes of an inn ; it shall be lawful for the justices assembled as aforesaid at a special session, holden under the authority of this Act, for the division or place in which the house so kept or having been kept shall be situate, in any one of the above-mentioned cases, and in such cases only, to grant to the heirs, executors, or administrators of the person so dying, or to the assigns of such person becoming incapable of keeping an inn, or to the assignee or assignees of such bankrupt, or to any new tenant or occupier of any house having so become unoccupied, or to any person to whom such heirs, executors, administrators, or assigns shall by sale or otherwise have *bond fide* conveyed or otherwise made over his or their interest in the occupation and keeping of such house, a license to sell exciseable liquors by retail, to be drunk or consumed in such house, or the premises thereunto belonging ; or to grant to the person whose house shall as aforesaid have been or shall be about to be pulled down or occupied for the improvement of the highways, or for any other public purpose, or have become unfit for the reception of travellers, or for the other legal purposes of an inn,

Provision for
transfer of
license in case
of death,
change of
occupancy,
destruction of
licensed pre-
mises, or other
contingency.

p. 12.

**9 Geo. IV,
c. 61.**

Duration of
license granted
in event of such
contingency.

Notices
required in
case of applica-
tion for license
for premises
not previously
licensed.

and who shall open and keep as an inn some other fit and convenient house, a license to sell exciseable liquors by retail, to be drunk or consumed therein: Provided always, that every such license shall continue in force only from the day on which it shall be granted until the 5th day of April or the 10th day of October then next ensuing, as the case may be: Provided also, that every person intending to apply, in any of the above-mentioned cases, at any such special session for a license to sell exciseable liquors by retail, to be drunk or consumed in a house or premises thereunto belonging, in which exciseable liquors shall not have been sold by retail, to be drunk or consumed on the premises, by virtue of a license granted at the general annual licensing meeting next before such special session, shall, on some one Sunday within the six weeks next before such special session, at some time between the hours of ten in the forenoon and of four in the afternoon, affix or cause to be affixed on the door of such house, and on the door of the church or chapel of the parish or place in which such house shall be situate, and where there shall be no church or chapel, on some other public and conspicuous place within such parish or place, such and the like notice as is hereinbefore directed to be affixed by every person intending to apply at the general annual licensing meeting for a license to sell exciseable liquors by retail, to be drunk or consumed in a house not theretofore kept as an inn, and shall in like manner serve copies of the said notice on one of the overseers of the poor, and on one of the constables or other peace officers of such parish or place.

Fees to be paid
for licenses.

p. 60.

Penalty for
taking larger
fees.

15. It shall be lawful for the clerk of the justices, as well at the general annual licensing meeting as also at any special session to be holden under this Act, to demand and receive from every person to whom a license shall be granted under this Act, for the trouble of such clerk, and for all expenses connected therewith, the sums following, and no more; *videlicet*, for the petty constable or other peace officer, for serving notices, and for all other services hereby required of such petty constable or other peace officer, the sum of one shilling; for the clerk of the justices, for the license, the sum of five shillings; and for preparing the precepts to be directed to the high constable, and notices to be delivered by the petty constable, as required by this Act, the sum of one shilling and sixpence; and every such clerk, who shall demand or receive from any person for such respective fees in this behalf any greater sum or any thing

of greater value than the sums hereinbefore specified, being in the whole the sum of seven shillings and sixpence, shall for every such offence, on conviction before one justice, forfeit and pay the sum of five pounds.

9 Geo. IV,
c. 61.

16. No sheriff's officer, or officer executing the legal process of any court of justice in any county or place, shall be capable of receiving or using any license under this Act; and every license granted or transferred to any person exercising any such office shall be void to all intents and purposes.

Persons disqualified to hold licenses.

17. No license for the sale of any exciseable liquors by retail, to be drunk or consumed on the premises of the person licensed, shall be granted by the commissioners of excise, or by any officer of excise, to any person whatsoever, unless such person shall have previously obtained from the justices a license under this Act, and which said license of such justices shall be retained by such person after being produced to the commissioners or officers of excise; and every license granted by the commissioners of excise, or by any officer of excise, contrary to this provision, shall be null and void to all intents and purposes.

No excise license to be granted, except to a person licensed under this Act.

p. 163.

27. Any person who shall think himself aggrieved by any act of any justice, done in or concerning the execution of this Act, may appeal against such act to the next general or quarter sessions of the peace holden for the county or place wherein the cause of such complaint shall have arisen, unless such session shall be holden within twelve days next after such act shall have been done, and in that case to the next subsequent session holden as aforesaid, and not afterwards, provided that such person shall give to such justice notice in writing of his intention to appeal, and of the cause and matter thereof, within five days next after such act shall have been done, and seven days at the least before such session, and shall within such five days enter into a recognisance, with two sufficient sureties, before a justice acting in and for such county or place as aforesaid, conditioned to appear at the said session, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognisance being entered into, the justice before whom the same shall be entered into shall liberate such person if in custody for any offence in reference to which the act

Appeal may be made to the quarter sessions.

p. 72.

9 Geo. IV,
c. 61.

Judgment of
the quarter
sessions to be
final.

intended to be appealed against shall have been done ; and the court at such session shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs, as to the said court shall seem meet ; and in case the act appealed against shall be the refusal to grant or to transfer any license, and the judgment under which such act was done be reversed, it shall be lawful for the said court to grant or to transfer such license, in the same manner as if such license had been granted at the general annual licensing meeting, or had been transferred at a special session ; and the judgment of the said court shall be final and conclusive to all intents and purposes ; and in case of the dismissal of such appeal, or of the affirmance of the judgment on which such act was done, and which was appealed against, the said court shall adjudge and order the said judgment to be carried into execution, and costs awarded to be paid, and shall if necessary issue process for enforcing such order ; provided that no justice shall act in the hearing or determination of any appeal to the general or quarter sessions as aforesaid from any act done by him in or concerning the execution of this Act : Provided also, that when any cause of complaint shall have arisen within any liberty, county of a city, county of a town, city, or town corporate, it shall be lawful for the person who shall think himself so as aforesaid aggrieved to appeal against any such act as aforesaid, if he shall think fit, to the quarter sessions of the county within or adjoining to which such liberty or place shall be situate, subject to all the provisions hereinbefore contained.

Justices to
bind parties
to appear to
give evidence
at quarter
sessions.

p. 76.

28. When any person shall have given notice of his intention to appeal as aforesaid, and shall have entered into recognisance as hereinbefore directed, it shall be lawful for the justice before whom such recognisance shall have been entered into to summon any person whose evidence shall appear to him to be material, and to require such person to be bound in recognisance to appear at the said general or quarter session, and to give evidence in such appeal ; and in case any such person as aforesaid shall neglect or refuse to obey such summons, or shall refuse to enter into such recognisance, it shall be lawful for such justice as aforesaid to issue his warrant to apprehend such person so neglecting or refusing to obey such summons, and to bring him before such justice, and, if such person shall continue to refuse to enter into such recognisance, to commit him to the common gaol or house of correction of

the county or place for which such justice shall be then acting, there to remain until he shall enter into such recognisance, or shall be otherwise discharged by due course of law.

9 Geo. IV,
c. 61.

29. In every case where notice of appeal against the judgment of any justice in or concerning the execution of this Act shall have been given, and such appeal shall have been dismissed, or the judgment so appealed against shall have been affirmed, or such appeal shall have been abandoned, it shall be lawful for the court to whom such appeal shall have been made or intended to be made, and such court is hereby required, to adjudge and order that the party so having appealed, or given notice of his intention to appeal, shall pay to the justice to whom such notice shall have been given, or to whomsoever he shall appoint, such sum, by way of costs, as shall in the opinion of such court be sufficient to indemnify such justice from all cost and charge whatsoever to which such justice may have been put in consequence of his having had served upon him notice of the intention of such party to appeal; and if such party shall refuse or neglect forthwith to pay such sum, it shall be lawful for the said court to adjudge and order that the party so refusing or neglecting shall be committed to the common gaol or house of correction, there to remain until such sum be paid; and that in every case in which the judgment so appealed against shall be reversed, it shall be lawful for such court, if it shall think fit, to adjudge and order that the treasurer of the county or place in and for which such justice whose judgment shall have been so reversed shall have acted on the occasion when he shall have given such judgment, shall pay to such justice, or to whomsoever he shall appoint, such sum as shall, in the opinion of such court, be sufficient to indemnify such justice from all costs and charges whatsoever to which such justice may have been so put; and the said treasurer is hereby authorised to pay the same, which shall be allowed to him in his accounts.

Court to
adjudge costs
of justices to be
paid by appel-
lant in certain
cases.

p. 76.

If the justice's
judgment be
reversed, the
court may
order the
county trea-
surer to pay
the justice's
costs.

36. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or the powers of the chancellors or vice-chancellors of the same, as by law possessed under the respective charters of the said Universities, or otherwise; or the master, wardens, freemen, and commonalty of the Vintners of the City of London,

Act not to
affect the two
Universities or
the Vintners'
Company;

p. 159.

**9 Geo. IV,
c. 61.**

nor to alter the time of licensing in London; nor any law of excise; nor to prohibit the sale of beer at fairs in certain cases.

Rules for the interpretation of this Act.

but not to extend to those freemen of the said Company of Vintners who have obtained the same by redemption only; nor to alter the time of granting licenses for keeping inns in the city of London: Provided also, that nothing in this Act contained shall alter any law relating to the revenue of excise, except so far as the same is hereby expressly altered and otherwise provided for; nor to prohibit any person from selling beer in booths or other places at the time and within the limits of the ground or place in or upon which is holden any lawful fair, in like manner as such person was authorised to do before the passing of this Act.

37. And in order to remove doubts as to the meaning of certain words in this Act, be it enacted, that the word "justice" shall be deemed to mean justice of the peace; and that the words "treasurer of the county or place" shall be deemed to include any officer acting in such capacity, or charged with the receipt and expenditure of moneys from and out of which the cost of public prosecutions have been usually defrayed; that the words "peace officer" shall be deemed to include any petty constable, tithingman, head-borough, beadle, or bailiff; that the words "parish officer" shall be deemed to include any churchwarden, chapelwarden, or overseer of the poor; and that the said words "justice," "treasurer of the county or place," "peace officer," "parish officer," and the words "high constable," and the words "petty constable," and the words "overseer of the poor," and the words "clerk of justices," shall each be deemed to include any person acting as such, and any number of justices, treasurers, peace officers, parish officers, high constables, petty constables, overseers of the poor, and clerks of justices; and that the word "person," and the word "party," shall be deemed to include any number of persons and parties; and that the meaning of the aforesaid several words shall not be restricted, although the same may be subsequently referred to in the singular number and masculine gender only; and that the word "notice," and the word "license," and the word "adjournment," and the word "day," and the word "time," and the word "house," and the word "place," shall each be deemed to include any number of notices, licenses, adjournments, days, times, houses, or places; and that the word "county," and the words "county or place," shall be deemed severally to include any county, riding, division of the county of Lincoln, hundred, division of a county, liberty, division of a liberty, county of a city, county of a town,

city, cinque port, or town corporate; and the words "division or place" shall be deemed to include any division of a county or riding, liberty, division of a liberty, county of a city, county of a town, city, cinque port, or town corporate; and that the words "parish or place" shall be deemed to include any township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor; and that the word "inn" shall be deemed to include any inn, alehouse, or victualling house; and that the words "inn, alehouse, or victualling house" shall be deemed to include all houses in which shall be sold by retail any exciseable liquor, to be drunk or consumed on the premises; and that the words "exciseable liquor" shall be deemed to include any ale, beer, or other fermented malt liquor, sweets, cider, perry, wine, or other spirituous liquor which now is or hereafter may be charged with duty either by customs or excise; and that the word "penalty" shall be deemed to include any fine, penalty, or forfeiture of a pecuniary nature; and that the meaning of the said several words shall not be restricted, although the same may be subsequently referred to in the singular number only.

9 Geo. IV,
c. 61.

11 GEO. IV, & 1 WILL. IV, c. 64.

*An Act to permit the general Sale of Beer and Cider by
Retail in England.* [23rd July 1830.]

It shall and may be lawful for any and every person, who shall obtain a license for that purpose under the provisions of this Act, to sell beer, ale, and porter by retail in any part of England, in any house or premises specified in such license; any thing in any Act or Acts heretofore made, or in force at the time of the passing of this Act, to the contrary in anywise notwithstanding.

11 Geo. IV,
& 1 Will.
IV, c. 64.

All persons
licensed under
this Act may
sell beer by
retail.

2. It shall be lawful for every and any person, being a householder, (other than and except such persons as are hereinafter specially excepted,) who shall be desirous of selling beer, ale, and porter by retail under the provisions of this Act, to apply for and to obtain an excise license for that purpose; and in every application for such license there shall be specified, set forth, and inserted the Christian name and surname of the party applying for such license, and a description of the house or premises in which beer,

Parties desirous
of retailing beer
shall apply for
a license.

p. 174.

**11 Geo. IV,
& 1 Will.
IV, c. 64.**

In London,
licenses shall be
granted by the
commissioners
of excise, &c. ;

elsewhere in
England, by
the collectors
and supervisors
of excise.

Licenses to be
granted on pay-
ment of duty.

No license shall
be granted to a
sheriff's officer.

Licenses to be
registered.

Register shall
be produced
for the inspec-
tion of
magistrates.

ale, and porter is intended to be sold by retail by such person . . . ; and any and every such license which shall be taken out within the limits of the chief office of excise in London shall be granted under the hands and seals of two or more of the commissioners of excise for the time being, or of such persons as they the said commissioners of excise, or the major part of them, for the time being, shall from time to time authorise, employ, or direct for that purpose ; and any and every such license which shall be taken out in any part of England not within the said limits shall be granted under the respective hands and seals of the several collectors and supervisors of excise within their respective collections and districts ; and it shall be lawful for the said commissioners of excise, or any two or more of them respectively, and for the person to be authorised, employed, or directed by the said commissioners or the major part of them, and also for all such collectors and supervisors, and they are hereby respectively authorised and required . . . to grant such license to the persons who shall apply for the same, the person so applying first paying for such license a duty of two pounds and two shillings, to be applied and accounted for as hereinafter directed ; and every such license shall be dated on the day when the same shall be granted ; . . . and every such license . . . shall be duly registered in the proper department of the excise : Provided always, that no such license shall authorise or entitle the party licensed to receive any license to sell or retail wine or spirits, any thing in any Act or Acts of Parliament to the contrary thereof notwithstanding ; and that no such license shall be granted to any person being a sheriff's officer, or officer executing the legal process of any court of justice, . . . and that any license granted to any such person shall be void to all intents and purposes ; and a list or register of every license so granted, specifying the name and place of abode of every person licensed, . . . and the name and description of the house mentioned in such license, shall be kept at the excise office with respect to all licenses granted by the commissioners of excise or any person authorised by them, and at the office or dwelling-house of every collector and supervisor of excise in their and his respective collections and districts ; and such list or register shall at all times be produced to and shall be open to the inspection and perusal of any magistrate of the county or place where such license shall be granted and where such house shall be situate ; and a copy of such list or register

shall once in every calendar month be transmitted by every such collector or supervisor to the clerk of the magistrates for the district in which such license shall be granted; and any copy of or extract from such list or register, which shall or may be at any time required by the clerk to the magistrates, shall be given to him by such collector or supervisor whenever thereto required.

11 Geo. IV,
& 1 Will.
IV, c. 64.

3. The duty by this Act imposed on licenses to sell beer by retail shall be under the management of the commissioners of excise for the time being, and shall and may be respectively raised, levied, collected, answered, paid, and recovered in such and the like manner, and in or by any or either of the general or special means, ways, or methods by which any other duties of excise on licenses are or may be raised, levied, collected, answered, paid, or recovered; and all the moneys arising by the duties by this Act imposed and made payable as aforesaid, the necessary charges of raising and accounting for the same excepted, shall from time to time be paid into the receipt of His Majesty's exchequer at Westminster, and the said money so paid into the receipt of the exchequer as aforesaid shall be carried to and made part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

License duty shall be under the management of the commissioners of excise, and the moneys arising therefrom shall be carried to the Consolidated Fund.

7. No person shall sell any beer by retail under the provisions of this Act at any time after the expiration of any license granted under this Act, nor in any house or place not specified in such license: Provided always, that it shall be lawful for any person so licensed to take out a fresh retail license for the selling beer by retail before the expiration of any former retail license, and so from year to year; and if any person, not being duly licensed to sell beer as the keeper of a common inn, alehouse, or victualling house, shall sell any beer by retail without having an excise retail license in force authorising such person so to do, or after the expiration of any such license, or without renewing such license in manner aforesaid, or in any house or place not specified in such license, or if any such person so licensed shall deal in or retail any wine or spirits, every such person so offending shall for every such offence forfeit and lose the sum of twenty pounds.

No person shall sell beer after expiration of his license, or in any place not therein specified.

License may be renewed yearly.

Penalty on selling without having or renewing license, or in place not licensed, or selling wine or spirits, 20l.

8. The said last-mentioned fine, penalty, or forfeiture of twenty pounds, shall and may be sued for, recovered, levied, mitigated, and distributed by such ways, means, and

Such penalty may be recovered as other excise penalties.

11 Geo. IV,
& 1 Will.
IV, c. 64.

Application of
penalties.

methods as any fine, penalty, or forfeiture may be sued for, recovered, levied, mitigated, or distributed by any law or laws of excise; and that one moiety of every such fine, penalty, or forfeiture shall be to His Majesty, his heirs and successors, and the other moiety to him or them who shall inform, discover, or sue for the same.

Powers of
Excise Act,
7 & 8 Geo. IV,
c. 53, &c.,
extended to
this Act.

9. All the powers and authorities, directions, rules, regulations, methods, penalties, forfeitures, clauses, matters, and things, which in and by an Act made in the eighth year of the reign of His late Majesty King George the Fourth, intituled "An Act to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout Great Britain and Ireland," or by any other law now in force relating to His Majesty's revenue of excise, are provided and established for enforcing, regulating, managing, raising, levying, collecting, paying, mitigating, recovering, adjudging, or distributing the penalties thereby imposed, and all matters and things therein relating to excise licenses (except where otherwise provided by this Act, or repugnant thereto), shall and may be exercised, practised, applied, used, and put in execution in and for the enforcing, regulating, managing, raising, levying, collecting, paying, mitigating, recovering, adjudging, or distributing the said penalty of twenty pounds, and all matters and things relating to the said licenses hereby authorised and required to be granted as aforesaid, as fully and effectually to all intents and purposes as if all and every the said powers, authorities, directions, rules, regulations, methods, penalties, forfeitures, clauses, matters, and things were particularly repeated and re-enacted in this present Act; anything hereinafter contained to the contrary thereof in anywise notwithstanding.

Partners need
only take out
one license.

License shall
not extend to
any other house
than that
specified.

10. Persons trading in partnership, and in one house or premises only, shall not be obliged to take out more than one license in any one year, for selling any beer by retail under the provisions of this Act: Provided that no one license which shall be granted by virtue of this Act shall authorise or empower any person or persons to sell any beer, ale, or porter, under the provisions of this Act, in any house or place other than the house or place mentioned in such license for selling beer, ale, and porter by retail under the provisions of this Act, and in respect whereof such license shall be granted.

23. Whenever at any session for any liberty, county of a city, county of a town, city or town corporate, there shall not be present at least two justices acting in and for any such liberty, county of a city, county of a town, city or town corporate, it shall be lawful for the justices acting in and for the county or counties adjoining to such liberty, county of a city, county of a town, city or town corporate, to act within such liberty or place, and with the justice or justices thereof who shall be present at any such sessions as aforesaid, for the purpose of hearing complaints as to offences against this Act ; any law, custom, or usage to the contrary notwithstanding.

11 Geo. IV,
& 1 Will.
IV, c. 64.

If justices of liberties, &c., do not attend at sessions, the county justices may act.

24. Nothing herein contained shall extend to give the justices of the county or any division thereof any power or authority for the putting of the provisions of this Act in execution within any of the Cinque Ports or either of the two ancient towns, or any of the corporate or other members or liberties of the Cinque Ports or two ancient towns ; but it shall be lawful for the justices of and for each of the principal Cinque Ports and two ancient towns, and the liberties thereof, and for the justices of and for the liberties thereof, and the corporate members, to act within the same respectively as they have been accustomed, and for them or any of them to act within each of the corporate members immediately belonging or subordinate to such principal Cinque Port or ancient town, with the justice or justices of each such corporate member, for the purpose of hearing complaints as to offences against this Act in all such cases in which the justices of the county are herein-before empowered or authorised to act with the justice or justices of any liberty, county of a city, county of a town, city or town corporate.

Powers hereby given to justices of counties not to extend to the cinque ports, two ancient towns, and their members or liberties.

The justices of the cinque ports, and of the two ancient towns and their members and liberties shall act there.

29. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or any of the powers and authorities vested by charter or otherwise in the chancellors, masters, and scholars of the said Universities, and their successors, or in the master, wardens, freemen, and commonalty of the Vintners of the City of London, but not to extend to those freemen of the said Company of Vintners who have obtained the same by redemption only ; nor in any way to affect any license to the keeper of any inn, alchouse, or victualling house, unless in so far as relates to the sale of beer by retail ; nor to prohibit any person from selling beer in booths or other

Act not to affect the two Universities, nor the Vintners' Company in London ;

nor to affect publicans' licenses, except as to the sale of beer ; nor to prohibit the sale of beer at fairs as heretofore.

11 Geo. IV,
& 1 Will.
IV, c. 64.

places at the time and within the limits of the ground or place in or upon which is holden any lawful fair, in like manner as such person was authorised to do before the passing of this Act.

Licenses to
retail cider may
be granted
under the
regulations of
this Act, on
payment of
1*l.* 1*s.* duty.

p. 177.

Provisions and
penalties of this
Act with
respect to the
sale of beer to
apply to the
sale of cider
and perry.

30. It shall be lawful for any person desirous of selling cider and perry by retail to apply for and to obtain an excise license for that purpose, under the same regulations in all respects (except as hereinafter is otherwise provided) as are in this Act prescribed and contained with respect to persons desirous of selling beer, ale, and porter by retail, and of being licensed for that purpose; and that all the clauses, regulations, and provisions in this Act contained relating to the sale of beer by retail, and to the licenses for selling the same, and to the sureties for the parties licensed, and to the conduct of the parties licensed, and to all other matters whatever respecting the selling of beer by retail, and the retailers thereof, and the licenses for the same, and the houses where the same are sold, and the penalties against the parties licensed, shall be taken and deemed to be applicable to the sale of cider and perry by retail, and to licenses for the same, and to the sellers of cider and perry by retail, as if cider and perry, and the retailers thereof, were expressly mentioned and specified in and throughout this Act: Provided always, that the person receiving a license for selling cider or perry by retail shall pay for such license a duty of one pound one shilling and no more, instead of the duty of two pounds two shillings hereinbefore mentioned, and which said duty of one pound one shilling shall be applied in like manner as the said duty of two pounds two shillings is hereinbefore directed to be applied; and every such license shall be according to the form in the schedule annexed to this Act: Provided also, that any person licensed under this Act to sell beer by retail may sell also cider and perry by retail without receiving a separate license for that purpose; but that no person licensed to sell cider and perry by retail, and paying for such license, as herein provided, the sum of one pound and one shilling, shall be at liberty to sell beer by retail.

Licensed
retailers of beer
may also retail
cider, &c., with-
out separate
license; but
retailers of
cider may not
retail beer.

Covenants
against houses,
&c., being used
as public-houses
to extend to
persons licensed
under this Act.

31. Any and every covenant or clause of restriction contained in any lease or contract between any landlord and tenant, whereby the trade or business of a victualler or publican is prohibited from being carried on in any house, building, or place mentioned or comprised in such lease or contract, or whereby any such house, building, or place is

prohibited from being used as a public house or alehouse, shall apply and extend, and shall be construed to apply and extend, to every person who shall be licensed to sell beer, ale, or porter, or cider or perry, under the provisions of this Act, and to any and every house specified and mentioned in the license granted to such person.

11 Geo. IV,
& 1 Will.
IV, c. 64.

32. And in order to remove doubts as to the meaning of certain words in this Act, be it enacted, that the word "justice" shall be deemed to mean justice of the peace; and that the word "person" and the word "party" shall be deemed to include any number of persons and parties; and that the word "license" and the word "day" and the word "time," and the word "house," and the word "place," shall each be deemed to include any number of licenses, days, times, houses, or places; and that the word "beer" shall in all cases be deemed to include beer, ale, and porter; and that the word "cider" shall in all cases be deemed to include cider and perry; and that the word "county" and the words "county or place" shall be deemed severally to include any county, riding, division of the county of Lincoln, hundred, division of a county, liberty, division of a liberty, county of a city, county of a town, city, cinque port, or town corporate; and the words "division or place" shall be deemed to include any division of a county or riding, liberty, division of a liberty, county of a city, county of a town, city, cinque port, or town corporate; and that the words "parish or place" shall be deemed to include any township, hamlet, tithing, vill, extra-parochial place, or any place maintaining its own poor (*see* p. 78); and that the word "penalty" shall be deemed to include any fine, penalty, or forfeiture of a pecuniary nature; and that the meaning of the several words in this Act shall not be restricted, although the same may be subsequently referred to in the singular number or masculine gender only.

Rules for the
interpretation
of this Act.

4 & 5 WILL. IV, CAP. 75.

An Act to . . . impose additional duties on Licenses to Retailers of Spirits in the United Kingdom.

[14th August 1834.]

10. And whereas an Act passed in the 9th year of the reign of his late Majesty King George the Fourth, for regulating the retail of excisable articles and commodities

4 & 5 Will.
IV, c. 75.

Recital of 9
Geo. IV, c. 47.

**4 & 5 Will.
IV, c. 75.**

Licenses under
recited Act or
any other
Excise Act may
be granted by
commissioners
of excise or
their authorised
officers.

to passengers on board of passage vessels from one part to another of the United Kingdom ; and by an omission in the said Act no power is given to any officer of excise, or any other persons than the commissioners of excise, to grant the licenses thereby authorised to be granted, whereby great inconvenience and delay is occasioned to persons desirous of obtaining such licenses ; for remedy whereof be it further enacted, that all licenses to be granted under the said Act, or any other Act relating to the revenue of excise, may be granted by the commissioners of excise, or by any officer or officers of excise who shall be authorised by the commissioners of excise to grant the same ; and all licenses granted by any officer or officers so authorised shall be good, valid, and effectual ; anything in any Act contained to the contrary notwithstanding.

4 & 5 WILL. IV, CAP. 85.

An Act to amend an Act passed in the first year of His present Majesty, to permit the general sale of beer and cider by retail in England. [15th August 1834.]

**4 & 5 Will.
IV, c. 85.**

Excise licenses
for the sale of
beer not to
authorise con-
sumption there-
of on the
premises unless
granted upon
certificate.

From and after the commencement of this Act it shall be lawful for the commissioners of excise or other persons duly authorised to grant licenses for the sale of beer, ale, porter, cider, or perry, under the provisions of the said recited Act, to any person applying for the same, but such license shall not authorise the person obtaining it to sell beer or cider to be drunk or consumed in the house, or on the premises specified in the same license, unless the same be granted upon the certificate hereinafter required.

Billeting pro-
visions of Army
Act to extend
only to persons
licensed for the
sale of beer to
be drunk on
premises.

5. The provisions in respect of billeting soldiers in victualling houses contained in any Act of Parliament for punishing mutiny and desertion, and for the better payment of the army and their quarters, shall extend only to such persons licensed under this and the said recited Act as shall be licensed to sell beer or cider to be drunk and consumed in the house or on the premises, and shall not extend or be deemed or construed to extend to such persons as shall be licensed to sell beer or cider not to be consumed on the premises ; any thing in the said recited Act or this Act to the contrary notwithstanding.

11. All the powers, regulations, proceedings, forms, penalties, forfeitures, and provisions contained in the said recited Act with reference to persons licensed under the said Act, and to the offences committed by such persons against the said Act, or against the tenor of any license granted under the said Act, . . . and to persons doing the things thereby prohibited without the license required by the said Act, shall (except where they are altered by this Act or are repugnant thereto) be deemed and taken to be applicable to all persons licensed under this Act, and to all offences committed by such persons of the same description as the offences mentioned in the said Act, . . . and to all persons doing, without the license required by this Act, things of the same description as the things prohibited without the license required by the said Act, as fully and effectually as if all the said powers, regulations, proceedings, forms, penalties, forfeitures, and provisions had been repeated and re-enacted in this Act, with reference to persons licensed under this Act, . . . and to persons acting without the license required by this Act. . . .

4 & 5 Will.
IV, c. 85.

The powers, provisions, and penalties of 1 Will. IV. c. 64, to apply to persons licensed under this Act.

12. All the provisions of the said recited Act shall be deemed and taken to be in full force, save and except where the same are altered by this Act; and so much of the said Act as relates to the interpretation of certain words therein mentioned shall be applied to the interpretation of the same words where used in this Act.

Recited Act to continue in force, except as hereby altered.

14. The said last-mentioned duties shall be under the management of the commissioners of excise, and shall be raised, levied, collected, and recovered, and accounted for and paid in the same manner and by the same means, and under the same regulations and provisions, pains, penalties, and forfeitures, as are prescribed in the said recited Act with respect to the duties hereby repealed; all which said regulations and provisions, pains, penalties, and forfeitures, shall apply to the duties hereby imposed, and shall be enforced in respect of the same as fully and effectually as if repeated and re-enacted in this Act.

Such duties to be under the management of commissioners of excise, and to be recovered and accounted for under the provisions of recited Act.

15. Nothing herein contained shall affect, or be deemed or construed to affect, the amount of duty payable according to the provisions of the said recited Act on licenses to retail cider and perry; but in every such license shall be specified whether the same is granted for the sale

Not to affect duty on licenses to retail cider and perry; but such licenses to state particulars.

**4 & 5 Will.
IV, c. 85.**

of cider and perry by retail to be drank or consumed not in or upon the house or premises where sold, or for the retail of cider and perry to be drank and consumed in or upon the house and premises where sold.

Licenses under this Act not to authorise persons to hold licenses for sale of wine.

Penalty on persons licensed under this Act permitting wine or spirits to be consumed on the premises.

p. 179.

Penalty on unlicensed persons selling beer and cider by retail to be drank off the premises, 10*l.*; to be drank on the premises, 20*l.*

p. 181.

16. No license to be granted under the said recited Act and this Act for the sale of beer or cider shall authorise any person to take out or hold any license for the sale of wine, spirits, or sweets or made wines, or mead or metheglin; and if any person licensed under the said recited Act and this Act to sell beer or cider shall permit or suffer any wine or spirits, sweets or made wines, mead or metheglin, to be brought into his house or premises to be drunk or consumed there, or shall suffer any wine, spirits, sweets, mead or metheglin, to be drunk or consumed in his house or premises by any person whomsoever, such person shall, over and above any excise penalty or penalties to which he may be subject, forfeit twenty pounds, to be recovered, levied, mitigated, and applied in the same manner as other penalties (not being excise penalties) are by this Act to be recovered, levied, mitigated, and applied.

17. Every person not being duly licensed to sell beer, cider, and perry as the keeper of a common inn, alehouse, or victualling house who shall sell any beer or cider or perry by retail not to be drank or consumed in or upon the house or premises where sold, without having an excise retail license in force authorising him so to do, shall forfeit ten pounds; and every person not being duly licensed to sell beer, cider, and perry as the keeper of a common inn, alehouse, or victualling house who shall sell any beer, cider, or perry by retail to be drank or consumed in or upon the house or premises where sold, without having an excise retail license in force authorising him so to do, whether such person shall or shall not be licensed to sell beer to be drank or consumed off the premises where sold, shall forfeit twenty pounds; which said penalties shall be sued for and recovered, mitigated and applied, by the same means and under the same provisions as any other penalty may be sued for and recovered, mitigated and applied, under any law or laws of excise.

What is a "retailing" of beer, cider, or perry.

p. 52.

19. Every sale of any beer, or of any cider or perry, in any less quantity than four gallons and a half, shall be deemed and taken to be a selling by retail.

20. And whereas doubts have been entertained whether persons licensed to sell beer or cider under the said Act of the first year of His Majesty's reign, who shall sell spirits or wine, or sweets or made wines, or mead or metheglin, without being licensed so to do, are liable to the penalties imposed by the laws of excise for selling spirits or wine, or sweets or made wines, or mead or metheglin without license; be it therefore declared and enacted, that all persons licensed under the said recited Act and this Act, selling wine or spirits, or any sweets or made wines, or mead or metheglin, shall be liable to and shall incur all the penalties imposed by the laws of excise for selling spirits or wine, sweets or made wines, mead or metheglin, without license.

4 & 5 Will.
IV, c. 85.

Persons
licensed to sell
beer or cider
under this
Act liable to
penalties for
selling spirits or
wine without
license.

5 & 6 WILL. IV, c. 39.

An Act to exempt certain Retailers of Spirits to a small Amount from the additional Duties on Licenses; and to discontinue the Excise Survey on Wine, and the Use of Permits for the Removal thereof.

[31st August 1835.]

7. It shall be lawful for the commissioners and officers of excise, and they are hereby authorised and empowered, to grant retail licenses to any person to sell beer, spirits, and wine in any theatre established under a royal patent, or in any theatre or other place of public entertainment licensed by the Lord Chamberlain or by justices of the peace, without the production by the person applying for such license or licenses of any certificate or authority for such person to keep a common inn, alehouse, or victualling house; any thing in any Act or Acts to the contrary notwithstanding.

5 & 6 Will.
IV, c. 39.

Licenses may
be granted to
sell beer, spirits,
and wine in
theatres, etc.,
without the
production of a
certificate.

p. 201.

3 & 4 VICT. c. 61.

An Act to amend the Acts relating to the general Sale of Beer and Cider by retail in England.

[7th August 1840.]

WHEREAS an Act was passed in the first year of the reign of his late Majesty King William the Fourth, intituled "An Act to permit the general Sale of Beer and Cider by Retail in England": And whereas another Act was passed in the fourth and fifth years of the reign of his

3 & 4 Vict.
c. 61.

11 Geo. IV, and
1 Will. IV, c. 64.

4 & 5 Will. IV,
c. 85.

3 & 4 Vict.
c. 61.

License to
retail beer not
to be granted to
any but the
real resident
occupier, nor in
respect of any
house rated at
less than 15*l.*
per annum
within the bills
of mortality, or
in cities, towns,
etc., containing
10,000 inhabi-
tants;

pp. 177, 178.

nor less than
11*l.* per annum
in places ex-
ceeding 2,500
inhabitants;

nor less than
8*l.* per annum
in places
situated else-
where.

said late Majesty, intituled "An Act to amend an Act passed in the First Year of his present Majesty, to permit the general Sale of Beer and Cider by Retail in England": And whereas it is expedient to alter and amend the said Acts: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, that no license to sell beer or cider by retail under the said recited Acts or this Act shall be granted to any person who shall not be the real resident holder and occupier of the dwelling house in which he shall apply to be licensed, nor shall any such license be granted in respect of any dwelling house which shall not, with the premises occupied therewith, be rated in one sum to the rate for the relief of the poor of the parish, township, or place in which such house and premises are situate on a rent or annual value of fifteen pounds per annum at the least if situated in the cities of London or Westminster, or within any parish or place within the bills of mortality, or within any city, cinque port, town corporate, parish, or place, the population of which according to the last parliamentary census shall exceed ten thousand, or within one mile, to be measured by the nearest public street or path, from any polling place used at the last election for any town having the like population, and returning a member or members of parliament; nor shall any such license be granted in respect of any dwelling house which shall not, with the premises occupied therewith, be rated in one sum to the rate for the relief of the poor of the parish, township, or place in which such house and premises are situate on a rent or annual value of eleven pounds per annum, if situated within any city, cinque port, town corporate, parish or place, the population of which according to such last parliamentary census shall exceed two thousand five hundred and shall not exceed ten thousand, or within one mile, to be measured as aforesaid, from any polling place used at the last election for any town having the like population as last aforesaid, and returning a member or members of parliament; nor shall any such licence be granted in respect of any dwelling house which shall not, with the premises occupied therewith, be rated in one sum to the rate for the relief of the poor of the parish, township, or place in which such house and premises are situate on a rent or annual value of eight pounds, if situated elsewhere than as aforesaid; and every license granted contrary hereto shall be null and void.

4. In any extra-parochial or other place where no rates are made or collected for the relief of the poor it shall be lawful for the proper officers of excise authorised to grant licenses to grant a license to any person to retail beer or cider in a dwelling-house, which, with the premises occupied therewith, shall be of the real rent or annual value of fifteen pounds, eleven pounds, or eight pounds respectively, according to the situation thereof as aforesaid.

3 & 4 Vict.
c. 61.

Extra-parochial
places.

7. Every person who shall hereafter be lawfully convicted of felony, or of selling spirits without license, shall for ever thereafter be disqualified from selling beer and cider by retail, and no license to sell beer and cider by retail under the said recited Acts or this Act shall be granted to any person who shall be so convicted as aforesaid; and if any such person shall, after having been so convicted as aforesaid, take out or have any license to sell beer or cider by retail under the said recited Acts or this Act, the same shall be void to all intents and purposes, and every person who shall, after being convicted as aforesaid, sell any beer or cider by retail, in any manner whatsoever, shall incur the penalty for so doing without license, and in all such cases in the prosecution for the recovery of such penalty a certificate from the clerk of the peace, or person acting as such, of any such conviction as aforesaid, shall on the trial in such prosecution be legal evidence thereof.

Licenses to
be void on
conviction of
felony or of
selling spirits
without license.

8. Upon the death of any person whatever licensed to retail beer or cider under the said recited Acts or this Act before the expiration of the license, it shall be lawful for the person authorised to grant licenses to authorise and empower, by endorsement or otherwise, as the commissioners of excise shall direct, the executors or administrators, or the widow or child, of such deceased person, who shall be possessed of and occupy the dwelling-house and premises before used for such purpose, to continue to retail beer and cider in the same house and premises during the residue of the term for which such license was originally granted, without taking out any fresh license, or payment of any additional duty thereon; and also at the expiration of such license (in case the residue of the said term shall be less than three calendar months from the death of the person licensed) to grant a new license to such executors, administrators, or widow, on payment of the proper license duty

On the death
of a licensed
person the
executors or
administrators,
or the widow or
child, may be,
authorised to
sell for the
remainder of
the term of
license.

p. 178.

**3 & 4 Vict.
c. 61.**

Persons
licensed to
retail beer
or cider to
make entry
with the excise.
7 & 8 Geo. IV,
c. 53.

4 & 5 Will. IV,
c. 51.

p. 165.

9. Every person whatever licensed to retail beer or cider under the said recited Aet or this Aet shall, in manner directed by an Aet passed in the seventh and eighth years of the reign of his late Majesty King George the Fourth, intituled "An Act to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout Great Britain and Ireland," and by another Aet passed in the fourth and fifth years of the reign of his late Majesty King William the Fourth, intituled "An Aet to amend the Laws relating to the Collection and Management of the Revenue of Exeise," make entry with the officers of exeise of every house, cellar, room, and place for storing, keeping, or retailing beer or eider, on pain of forfeiting the penalties imposed by the said last-mentioned Aet for making use of any unentered room or place; and all beer and cider found in any such unentered house, cellar, room, or place, shall be forfeited.

Officers of
excise em-
powered to
enter the
premises of
licensed beer
retailers;

p. 180.

11. It shall be lawful for any officer of exeise, at all times during the hours in which any house licensed for the retail of beer or eider may be kept open, to enter into every house, cellar, room, or place entered for the storing, keeping, or retailing of beer or eider, and to make seareh for and seize all wine and spirits and sweets which may be found in any such house, cellar, room, or place, and to examine all beer or eider kept therein.

and also the
houses of per-
sons selling
beer at the rate
of 1½d. or less
the quart.

p. 184.

12. It shall be lawful for any officer of exeise, during the hours which any house is kept open for the sale of beer after the rate of one penny halfpenny or after a less rate the quart, to enter into every such house, cellar, room, or place for the keeping or retailing such beer, and to make seareh for and seize all wines, spirits, sweets, and all beer which by law they are not entitled to sell.

Licenses may
be granted to
persons
licensed before
the passing of
the Act whilst
they continue
the occupiers
of the same
house, although
it is below the
qualification.

18. Nothing in this Aet contained shall prevent any person from obtaining, at the expiration of his existing license, a renewed license in respect of any house in which he shall at the time of the passing of this Aet be duly licensed to retail beer or cider under the said recited Aets or either of them, notwithstanding such house may not be of the rent or annual value by this Aet prescribed; . . . but it shall be lawful for the officers of exeise duly authorised to grant licenses to renew and continue to grant licenses to such person (being in other respects properly qualified) . . . so long as such person shall continue to

be the resident holder and occupier of the same house, any thing in this Act to the contrary notwithstanding. 3 & 4 Vict.
c. 61.

20. All the provisions of the said two recited Acts shall be deemed and taken to be in full force and applicable to this Act, save and except where the provisions of the said first recited Act are altered by the provisions of the said secondly recited Act, or where the provisions of either of the said two Acts are altered by this Act; and that so much of the said first-recited Act as relates to the interpretation of certain words therein mentioned shall be applied to the interpretation of the same words where used in this Act.

Recited Acts to continue in force, except as hereby altered.

Interpretation of words.

21. All the powers, regulations, proceedings, forms, penalties, forfeitures, enactments and provisions contained in the said recited Acts, or in either of them, with reference to persons licensed under either of the said Acts, and to the offences committed by such persons against either of the said Acts, or against the tenor of any license granted under the said Acts, and also with reference to the sureties of such persons, and to persons doing the things thereby prohibited without the license required by the said Acts or either of them, shall (except where they are altered by this Act, or are repugnant thereto,) be deemed and taken to be applicable to all persons licensed under this Act, and to all offences committed by such persons of the same description as the offences mentioned in the said Acts, and to the sureties of all such persons in respect of such offences, and to all persons doing, without the license required by this Act, things of the same description as the things prohibited without the license required by the said recited Acts, as fully and effectually as if all the said powers, regulations, proceedings, forms, penalties, forfeitures, enactments, and provisions had been repeated and re-enacted in this Act, with reference to persons licensed under this Act, and to the sureties of such persons, and to persons acting without the license required by this Act

Powers, provisions, and penalties of 11 Geo. IV, and 1 Will. IV, c. 64, and 4 & 5 Will. IV, c. 85, to apply to persons licensed under this Act.

22. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or any of the powers and authorities vested by charter or otherwise in the chancellors, masters, and scholars of the said Universities, and their successors, or in the master, wardens, freemen, and Commonalty of the Vintners of the City of London; but not to extend to those freemen of the said Company of Vintners who have obtained the same by redemption only.

Act not to affect the two Universities.

5 & 6 VICT. c. 44.

*An Act for the Transfer of Licenses and Regulation of
Public Houses.* [1st July 1842.]

5 & 6 Vict.
c. 44.

Empowering
transfer of
licenses by
justices at petty
sessions ;

p. 48.

9 Geo. IV, c. 61.

AT any petty session of justices of the peace holden in and for any division of every county and riding, and in any hundred of every county not being within such division, and in every liberty, city, town, or place, within which any inn, alehouse, or victualling house shall be situated, and for which the said justices shall be acting, at any time when no special session shall be holden for any such division, hundred, liberty, city, town, or place, it shall be lawful, in those cases where justices of the peace assembled at a special session are empowered, by an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to regulate the granting of licenses to keepers of inns, alehouses, and victualling houses in England," to transfer or grant licenses, before the expiration thereof, to se'l exciseable liquors by retail in the same house or premises in respect of which any person had been theretofore duly licensed, for the majority of the justices then present, upon application made to them at any such petty session, by indorsement under their hands and seals on any license which shall have been granted pursuant to the provisions of the said Act at any general licensing meeting, or at any adjournment thereof, to authorise (if they shall deem it proper so to do, after examining upon oath all necessary parties,) any person not disqualified by the said Act, to whom it shall be proposed at the time of such application to transfer or grant any such license, to use, exercise, and carry on the business of a licensed victualler at the same house and on the same premises, and there to sell such exciseable liquors as might theretofore have been lawfully sold and retailed therein ; and thereupon it shall be lawful for the officer of excise empowered to transfer licenses by indorsement on the excise licenses required to be transferred to give the like authority to the persons so authorised by the magistrate or justices ; and the authority so granted shall continue and be in force until the then next ensuing special session which shall be holden for the division, hundred, liberty, city, town, or place within which such house and premises shall be situated, and no longer ; at which special session the justices then and there assembled, upon application made to them pursuant to the

said Act, touching any transfer or grant of license to the party or parties to whom such authority shall have been so given at petty sessions as aforesaid, shall hear and dispose of such application according to the provisions of the said Act: Provided always, that nothing herein contained shall be construed to empower any justices at petty sessions to give any such authority as aforesaid within any of the divisions assigned or to be assigned to any of the police courts already established or to be established within the metropolitan police district, except in the borough of Southwark; but that any such application as is hereinbefore directed to be made at petty sessions shall, when the house and premises in respect whereof any license shall have been obtained under the said Act shall be situated within any of the said police court divisions, and not in the borough of Southwark, be made to one of the police magistrates sitting at any of the said courts, and such magistrate shall in his discretion grant such authority in the manner and for the time hereinafter mentioned: Provided also, that any person or persons who shall be authorised, under the provisions of this Act, to continue to carry on the business of a licensed victualler, shall, after the obtaining such authority, and so long as the same shall continue in force, be subject to all the powers, regulations, proceedings, penalties, and provisions declared by or contained in any Act or Acts in force touching the regulation, government, or control of licensed keepers of inns, alehouses, and victualling houses, in like manner as if the same had been repealed and re-enacted, and that all penalties and forfeitures imposed by any such Act or Acts shall be applied as directed by the same respectively.

5 & 6 Vict.
c. 44.

Proviso as to
the metro-
politan police
district.

2. Whenever it shall be proved to the satisfaction of any such magistrate or justices at petty session, upon any application made as aforesaid, that any license granted pursuant to the said Act passed in the ninth year of the reign of King George the Fourth has been lost or mislaid, it shall and may be lawful for the said magistrate or justices to receive a copy of such license, certified to be a true copy under the hand of the clerk to the licensing justices by whom the said license shall have been granted, and to make such indorsement thereon as he or they might make under the provisions of this Act upon the original license; and such indorsement upon the copy so certified shall be as valid and effectual as if the same had been made upon the said license.

When licenses
are lost a copy
may be in-
dorsed and
considered
valid.

5 & 6 Vict.
c. 44.

Fee for in-
dorsing the
copy.

No wines, etc.,
to be sold on
board any
boats within
metropolitan
police district
during closing
hours for
public-houses.

p. 84.

3. For every such certified copy and every such indorsement a fee of two shillings and sixpence, and no more, shall and may be demanded and taken.

5. No wines, spirits, or other exciseable liquors shall be sold by retail on board of any boat, steam boat, or other vessel which shall be moored or lying at anchor within the metropolitan police district, during the hours and times on Sundays, Good Friday, and Christmas Day on which licensed victuallers are by law obliged to keep their houses closed; and any master, steward, mistress or stewardess, or any other person on board any such boat, steam boat, or other vessel, who shall during those hours on Sundays, Good Friday, and Christmas Day in which the houses of licensed victuallers shall be closed, sell any wines, spirits, or other exciseable liquors, in and on board such boat, steam boat, or other vessel, within the said district, shall be liable to a penalty not exceeding five pounds, which may be recovered before any magistrate of the metropolitan police courts, or if the offence shall be committed beyond the limits of any metropolitan police court established or to be established, before any two justices of the peace having jurisdiction therein, or shall, in the discretion of the magistrate or justices of the peace before whom the conviction shall take place, be imprisoned for any time not longer than one calendar month in any gaol or house of correction within his jurisdiction; and in every case of the adjudication of such pecuniary penalty, and non-payment thereof, it shall be lawful for such magistrate or justices of the peace to commit the offender to such gaol or house of correction for a term not exceeding one calendar month, the imprisonment to cease on payment of the sum due; and such penalty shall be paid to the receiver of the metropolitan police, and be applied by him towards the expenses of the police courts established within the said district.

Act not to
extend to
Universities of
Oxford and
Cambridge.

6. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or the powers of the chancellors or vice chancellors of the same, as by law possessed under the respective charters of the said Universities or otherwise.

11 & 12 VICT. c. 121.

An Act to alter the Laws and Regulations of Excise respecting the Survey of Dealers in and Retailers of Spirits, and respecting the sale and removal of Spirits by Permit from the Stock of such Traders; and respecting the Distribution of Penalties and Forfeitures recovered under the Laws of Excise.

[4th September 1848.]

9. Any person duly licensed as a dealer in spirits under an Act of the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to repeal several duties payable on excise licenses in Great Britain and Ireland, and to impose other duties in lieu thereof, and to amend the laws for granting excise licenses," may take out an additional license authorising such person to sell by retail any quantity (the same not being less than one reputed quart bottle, or in the bottles in which the same may have been imported) of foreign liqueurs, not to be drunk or consumed upon the premises.

11 & 12
Vict. c. 121.

Licensed dealers in spirits may take out an additional license to retail foreign liqueurs.
6 Geo. IV, c. 81.
p. 196.

10. For every such additional license there shall be paid an annual duty of excise of two pounds two shillings, which said duty shall be under the collection and management of the commissioners of excise, and shall be raised, recovered, paid, and accounted for in the same manner, and under the same enactments, provisions, pains, penalties, and forfeitures, as other license duties under the collection and management of the commissioners of excise are raised, recovered, paid, and accounted for.

Duty on additional license to be 2l. 2s., to be under the excise.

11. Every such license shall be in such form and shall contain such particulars as the commissioners of excise may direct, and shall be signed, granted, and issued by the proper officers of excise duly authorised to grant licenses; and every such license shall continue in force from the day of the date thereof until the 5th day of July following, on which day every such license shall expire, and shall be renewed if the same business is carried on; and all the enactments, provisions, pains, penalties, and forfeitures contained in the said recited Act of the sixth year of the reign aforesaid shall apply to and be in force in respect of the said additional license in the same manner as if the same had been one of the licenses originally included in that Act.

License to be in such form as the commissioners of excise direct, and to be granted by the officers of excise.

23 & 24 VICT. c. 27.

An Act for granting to Her Majesty certain Duties on Wine Licenses and Refreshment Houses, and for regulating the licensing of Refreshment Houses and the granting of Wine Licenses.
[14th June 1860.]

**23 & 24
Vict. c. 27.**

Powers and provisions of Excise Acts to apply to the duties granted by this Act.

1. [*The duties imposed by the first section of this Act are now replaced by those imposed by 24 & 25 Vict. c. 91, s. 9, and 43 & 44 Vict. c. 20, s. 41.*]

2. The duties by this Act granted shall be deemed to be excise duties, and shall be under the care and management of the Commissioners of Inland Revenue for the time being; and all powers, provisions, and regulations, penalties, and forfeitures contained in or enacted by any Act in force in relation to excise duties, shall, in all cases not herein expressly provided for, and so far as the same are not superseded by and are consistent with the express provisions of this Act, be duly observed, applied, and put in execution for ascertaining the rent or value of any house or premises in respect of which any license shall be applied for under this Act, and for charging, collecting, and securing the said duties hereby granted, and otherwise relating thereto, as fully and effectually as if the same powers, provisions, and regulations, penalties and forfeitures, were repeated and re-enacted in the body of this Act with reference to such rent or value and to the said duties hereby granted.

Every person keeping a shop entitled to take out a license to retail wine not to be consumed on the premises.

p. 194.

3. Every person who shall keep a shop for the sale of any goods or commodities other than foreign wine, or who shall have taken out a license as a dealer in wine (except persons expressly disqualified by this Act), shall, without producing or having any other license or authority, be entitled to take out a license under this Act to sell by retail, and in reputed quart or pint bottles only, in such shop foreign wine not to be consumed on the premises where sold, anything in any former Act to the contrary notwithstanding.

What shall be deemed selling by retail.

p. 52.

4. Every sale of foreign wine in any less quantity than two gallons, or in less than one dozen reputed quart bottles, at one time, shall be deemed to be a selling by retail.

6. All houses, rooms, shops, or buildings kept open for public refreshment, resort, and entertainment at any time between the hours of *nine* ⁽¹⁾ of the clock at night and five of the clock of the following morning, not being licensed for the sale of beer, cider, wine, or spirits respectively, shall be deemed refreshment-houses within this Act, and the resident, owner, tenant, or occupier thereof shall be required to take out a license under this Act to keep a refreshment-house; and every person who shall keep any house, room, shop, or building for the purpose of selling therein any victual or refreshment to be consumed on the premises where the same shall be sold (except beer, cider, wine, and spirits sold respectively under a proper license in that behalf), and every person who shall keep any house, room, shop, or building for the consumption therein by the public of any refreshment (except as aforesaid), although the same shall not be sold therein, may, if he shall think fit, take out a license under this Act to keep a refreshment-house; and in all proceedings and upon all occasions whatever it shall be sufficient to describe by the term refreshment-house any house, room, shop, or building in which any such article as aforesaid (except as aforesaid) is sold to be consumed, or is consumed as aforesaid, without further or otherwise designating or describing the same.

**23 & 24
Vict. c. 27.**

Persons keep-
ing houses, etc.,
herein named
required to take
out licenses.

p. 186.

7. Every person who shall be licensed to keep a refreshment-house, and shall pursue therein the trade or business of a confectioner, or shall keep open such house as an eating-house, for the purpose of selling, to be consumed therein, animal food or other victuals wherewith wine or other fermented liquors are usually drunk, shall be entitled (subject to the terms and conditions of this Act, and not being expressly disqualified thereby,) to take out a license to sell foreign wine by retail in such refreshment-house, to be consumed on the premises where the same shall have been sold, without producing or having any other license or authority than as aforesaid; and every confectioner and eating-house keeper respectively who shall have taken out such license to retail wine under this Act, shall not be subject or liable to any penalty or forfeiture under any other Act or Acts by reason or on account of his selling wine by retail, or having the same in his possession in his entered premises, anything in any other Act or Acts to the contrary notwithstanding.

Confectioners
and eating-
house keepers
entitled to take
out licenses to
sell wine to be
drunk on the
premises.

p. 189.

(1) Now "ten" (21 & 25 Vict. c. 91, s. 8, *post*).

**23 & 24
Vict. c. 27.**

Wine licenses
not to be
granted for
refreshment
houses under a
certain rent or
annual value.

p. 190.

Sheriff's officer
or process-
server dis-
qualified to hold
wine licenses.

8. Provided always, that no license to sell foreign wine by retail to be consumed on the premises shall be granted for any refreshment-house which, with the premises belonging thereto and occupied therewith, shall be under the rent and value of ten pounds a year, nor for any refreshment-house situated in any city, borough, town, or place containing a population exceeding ten thousand according to the then last parliamentary census, if such refreshment-house, with the premises belonging thereto and occupied therewith, shall be under the rent and value of twenty pounds a year ; and no sheriff's officer, or officer executing the legal process of any court of justice, shall be capable of receiving or using any license under this Act to sell wine by retail to be consumed on the premises ; and every license which shall be granted contrary hereto shall be void to all intents and purposes.

Penalty for
keeping a
refreshment
house without
license, 20%.

p. 186.

9. Every person who shall keep a refreshment-house for which a license is required by this Act, without taking out and having in force a proper license in that behalf granted to him under the authority of this Act, shall forfeit a sum not exceeding twenty pounds, which penalty shall be recovered as hereinafter directed.

By whom
licenses under
this Act shall be
granted.

10. All licenses authorised to be granted under this Act shall be granted by and under the hands of the collector or other person having charge of the excise collection, and the supervisor of excise of the district within which respectively the refreshment-house or other house or shop for or relating to which any such license shall be required, or by such other person or persons as the Commissioners of Inland Revenue shall appoint or authorise in that behalf, on payment of the duty chargeable for such licenses respectively : . . . Provided always, that it shall be lawful for the Commissioners of Inland Revenue from time to time to make such alterations therein as they may deem to be necessary, in consequence of any alteration or amendment of the law, in order to make such form of license conformable to the law for the time being.

Licenses :
date, expira-
tion, and re-
newal thereof.

p. 193.

11. All licenses which shall be granted under the authority of this Act between the thirty-first day of March and the first day of May in any year shall be dated on the first day of April, and all licenses which shall be granted at any other time shall be dated on the day on which the same shall be granted ; and all such licenses, whensoever

granted, shall have effect on and after the day of the date thereof until the first day of April then next following, and shall be renewed annually on payment of the duty by this Act charged thereon respectively. 23 & 24
Vict. c. 27.

12. Upon the death of any person licensed under this Act before the expiration of the license, it shall be lawful for the persons authorised to grant licenses to authorise and empower, by indorsement or otherwise, as the Commissioners of Inland Revenue shall direct, the executors or administrators or the widow or child of such deceased person who shall be possessed of and occupy the dwelling house and premises before used for such purpose, to continue the business for which such license was granted, and to sell in the same house and premises such articles as by the said license are authorised to be sold therein, during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty thereon, and the person so authorised and empowered shall then be deemed to be a person licensed under this Act, and accordingly subject to the provisions, conditions, regulations, and penalties contained therein.

On death of a licensed person, his representative, or widow or child, may be authorised to continue the business for which the license was granted, for the remainder of the term thereof.

p. 193.

16. A list or register of every license granted under the authority of this Act, specifying the name and place of abode of every person licensed, and the name and description of the house for which such license shall be granted, and whether the license shall be to keep a refreshment-house or for the sale of wine therein, shall be kept at the office or dwelling-house of every collector and supervisor of excise in their respective collections and districts; and such list or register shall at all times be produced to and shall be open to the inspection and perusal of any justice of the county or place where such license shall be granted and where such house shall be situate, and a copy of such list and register shall, once in every six months, be transmitted by every collector and supervisor of excise to the clerk of the magistrates for the district in which such license shall be granted, and any copy or extract of or from such list or register which shall be at any time required by the clerk to the said justices shall be given to him by such collector or supervisor whenever thereto required.

A list of licenses to be kept by collectors and supervisors for inspection of the justices, and copies of the list to be transmitted to the justices' clerk.

p. 193.

18. It shall be lawful for all constables and officers of police, when and so often as they shall respectively think proper, to enter into all houses licensed as refreshment-houses under the authority of this Act, and into and upon

Constables and police officers empowered to visit licensed refreshment houses.

**23 & 24
Vict. c. 27.**

Penalty for
refusing them
admittance.

License to be
forfeited on
second con-
viction if
justices think
fit.

the premises belonging thereto ; and if any person licensed to keep a refreshment-house, or any servant or other person in his employ or by his discretion, shall refuse to admit or shall not admit any constable or officer of police demanding admittance into such refreshment-house or upon such premises, the person so licensed shall for the first offence forfeit and pay any sum not exceeding five pounds, together with the costs of conviction, to be recovered before one or more justices of the peace, on information or complaint made within seven days next after the day on which such offence was committed ; and it shall be lawful for any two or more justices before whom any such person shall be convicted for the second time of any such offence to adjudge (if they shall so think fit) the license or licenses of such offender in respect of such refreshment-house to be forfeited, and that he shall be disqualified from having any license granted to him under this Act in respect of such house for the space of two years, or for such shorter space of time as they may think proper to adjudge.

Penalty for
selling wine by
retail without
license.

19. Every person who shall sell any wine by retail, whether to be consumed on the premises or not, without having a proper license in force duly authorising him in that behalf, shall, over and above any other penalty to which he may be liable, forfeit the sum of twenty pounds, which shall be denominated an excise penalty.

What shall be
deemed foreign
wine, and what
shall be deemed
spirits.

21. All liquor which shall be sold or offered for sale by any person, whether licensed under this Act or not, as being foreign wine, or under the name by which any foreign wine is usually designated or known, shall, as against the person who shall so sell or offer the same for sale, be deemed and taken to be foreign wine ; and any fermented liquor containing a greater proportion than forty *per centum* of proof spirit shall be deemed and taken to be spirits.

Licenses to be
void on con-
viction of
felony or selling
spirits without
license.

p. 190.

22. Every person who shall be convicted of felony or of selling spirits without license shall for ever thereafter be disqualified from selling wine by retail, and no license to sell wine by retail under this Act shall be granted to any person who shall have been so convicted as aforesaid ; and if any person shall, after having been so convicted as aforesaid, take out or have any license to sell wine by retail under this Act, the same shall be void to all intents and purposes ; and every person who shall, after being convicted as aforesaid, sell any wine by retail in any manner

whatsoever, shall incur the penalty for so doing without license; and in all such cases, in the prosecution for the recovery of such penalty a certificate from the clerk of assize or the clerk of the peace or person acting as such of any such conviction as aforesaid shall on the trial in such prosecution be legal evidence thereof.

**23 & 24
Vict. c. 27.**

23. Every person licensed to retail wine under this Act shall, in manner directed by the laws of excise in that behalf, make entry with the proper officer of excise of every house, cellar, room, and place for storing, keeping, or retailing of wine, on pain of forfeiting the penalties imposed by the statutes in that behalf for making use of any unentered room or place; and all wine found in any such unentered house, cellar, room, or place shall be forfeited.

Licensed re-tailers of wine to make entry of houses, etc., with the excise.

24. It shall be lawful for any officer of excise, during the hours in which any house licensed for the retail of wine to be consumed on the premises may be kept open, to enter into every house, cellar, room, or place entered for the storing, keeping, or retailing of wine to be consumed as aforesaid, and to make search for and seize all spirits which may be found in any such house, cellar, room, and place, and to examine all wine kept therein.

Excise officers empowered to enter the premises of licensed retailers of wine.

25. If any person licensed to retail wine under this Act shall receive into or keep or have in his possession, in any cellar, room, or place entered for storing, keeping, or retailing wine, any spirits, he shall, in addition to all other penalties, forfeit the sum of fifty pounds, which shall be denominated an excise penalty; and all spirits found in any such entered cellar, room, or place shall be forfeited; and on conviction of any such licensed person in any penalty for having spirits in his possession, or for selling or retailing spirits, the license of such person for retailing wine shall become null and void, and shall be so adjudged.

Penalty on persons licensed to retail wine having spirits in their entered premises.

30. ⁽¹⁾ All penalties under this Act, except those denominated excise penalties, shall be recovered upon the information or complaint of a constable or other peace officer before two justices acting in petty sessions, and shall be prosecuted and proceeded for within three calendar months next after the commission of the offence in respect of which such penalty shall be incurred, or within such

Penalties other than excise penalties recoverable before two justices in petty sessions, within three months after offence committed.

⁽¹⁾ SS. 30-38, 41, 42, are repealed by Licensing Act, 1872, sched., so far as they relate to the sale of intoxicating liquors or offences connected therewith.

23 & 24
Vict. c. 27.

shorter time as may be herein limited with regard to any particular penalty; and every person licensed under this Act to retail wine, to be consumed on the premises, who shall be convicted before two justices so acting in and for the division or place in which shall be situate the house kept or theretofore kept by such person, of any offence against the tenor of the license to him granted under this Act, or of any offence for which any penalty is imposed by this Act, shall, unless proof be adduced to the satisfaction of such justices that such person had been theretofore convicted within the space of twelve calendar months next preceding of some offence against the tenor of his license or against this Act, be adjudged to be guilty of a first offence against the provisions of this Act, and to forfeit and pay any penalty by this Act imposed for such offence, or if no specific penalty be so imposed then any sum not exceeding five pounds, together with the costs of the conviction; and if such proof as aforesaid shall be adduced that such person had been previously convicted within the space of twelve calendar months next preceding of one such offence only,

Second offence.

such person shall be adjudged to be guilty of a second offence against the provisions of this Act, and to forfeit and pay any penalty by this Act imposed for such offence, or if no specific penalty be so imposed then any sum not exceeding ten pounds, together with the costs of the conviction; and if such proof as aforesaid shall be adduced that such person had been previously convicted within the space of eighteen calendar months next preceding of two such separate offences, and if proof shall be adduced to the satisfaction of the justices that such person so charged is guilty of the offence charged against him, such person shall

Third offence.

be adjudged to be guilty of a third offence against the provisions of this Act, and to forfeit any penalty imposed by this Act in respect of such offence, or if no such specific penalty shall be so imposed then to forfeit and pay the sum of fifty pounds, together with the costs of the conviction.

Penalties for
offences in
refreshment
houses.

p. 187.

32. Every person licensed to keep a refreshment-house under this Act who shall (without a license for that purpose) sell or permit or suffer to be sold within such refreshment-house any intoxicating liquor, or shall knowingly suffer any unlawful games or gaming therein, or knowingly suffer prostitutes, thieves, or drunken and disorderly persons to assemble at or continue in or upon his premises, or do, suffer, or permit any act in contravention of his license, shall, upon conviction thereof before two justices, pay for the first offence a fine not exceeding forty shillings,

for the second offence a fine not exceeding five pounds, and for every subsequent offence a fine not exceeding twenty pounds, or be subject to a forfeiture of his license, at the discretion of the justices before whom he shall be convicted; and in case of such forfeiture of his license, such person shall be disqualified for the space of one year then next ensuing from obtaining a fresh license; and such fresh license, if obtained within the said year, shall be absolutely null and void to all intents and purposes.

23 & 24
Vict. c. 27.

33. It shall be lawful for the justices before whom any person shall be convicted of any offence against this Act to mitigate, if they shall see cause, any penalty incurred for such offence; provided that where any conviction shall take place on any information exhibited under the laws of excise such penalty shall not be mitigated to any sum less than one-fourth part thereof.

Power to
justices to
mitigate
penalties.

34. Provided always, that it shall be lawful for the party convicted of any such second or third offence to appeal to the general or quarter sessions of the peace then next ensuing, unless such sessions shall be held within twelve days next after such conviction, and in that case to the then next subsequent sessions; and in such case the party so convicted shall, before the convicting justices, forthwith enter into a recognisance, with two sufficient sureties, personally to appear at such general or quarter sessions, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded, which recognisances such justices are hereby authorised to require and take, or in failure of the party convicted entering into such recognisance the conviction shall remain good and valid to all intents and purposes; and the said justices who shall take such recognisance from the party convicted are also hereby required to bind the person who shall make such charge in a recognisance to appear at such general or quarter sessions as aforesaid, then and there to give evidence against the person so charged, and in like manner to bind any other person who shall have any knowledge of the circumstances of such offence; and it shall be lawful for such court of general or quarter sessions to adjudge such person to be guilty of any such second or third offence against the provisions of this Act, as the case may be, and such adjudication shall be final to all intents and purposes; and it shall be lawful for such court of general or quarter sessions to punish such offender by fine not exceeding the sum of

Appeal to the
sessions against
a second or
third con-
viction.

23 & 24
 Vict. c. 27.

one hundred pounds, together with the costs of such appeal, or to adjudge the license granted to and held by or on behalf of such offender to be forfeited and void, or to adjudge that no wine shall be sold by retail in the house or premises mentioned in the license of such offender for the term of two years from the date of such adjudication, or to punish such offender by such fine as aforesaid, and to adjudge such premises to be disqualified for the sale of wine as aforesaid, and such license to be forfeited and void, and if such license shall be adjudged to be forfeited and void, it shall thenceforth be void accordingly; and whenever in such case or in any other case the license of such offender shall be adjudged to be void, such offender shall from and after such adjudication be deemed and taken to be incapable of selling wine by retail in any house kept by him for the space of two years, to be computed from the time of such adjudication, and any license granted to such person during such term shall be void to all intents and purposes.

Court to ad-
 judge costs of
 appeal, in
 certain cases.

35. Whenever it shall happen that any appeal in pursuance of this Act shall be dismissed, or that the judgment appealed against shall be affirmed, or that such appeal shall be abandoned, it shall be lawful for the court to which such appeal shall have been made or intended to have been made, and such court is hereby required, to adjudge and order that the party so having appealed, or having entered into such recognisance, shall pay to the justices against whose judgment such appeal shall have been made or intended to be made, or to whomsoever they shall appoint, such sum by way of costs as shall in the opinion of such court be sufficient to indemnify such justices from all costs and charges whatsoever to which such justices may have been put in consequence of the intention or declared intention of such party to appeal; and if such party shall refuse or neglect to pay forthwith such sum, it shall be lawful for the said court to adjudge and order that the party so refusing or neglecting shall be committed to the common gaol or house of correction, there to remain until such sum be paid, or for any time not exceeding six calendar months, unless such sum be sooner paid; and in every case in which the judgment so appealed against shall be reversed it shall be lawful for such court (if it shall think fit) to adjudge and order that the treasurer of the county or place in and for which such justices whose judgment shall have been so reversed shall have acted on the occasion when they shall have given such judgment

shall pay to such justices, or to whomsoever they shall appoint, such sum as shall in the opinion of such court be sufficient to indemnify such justices from all costs and charges whatsoever to which they may have been so put ; and the said treasurer is hereby authorised to pay the same, which shall be allowed to him in his accounts.

23 & 24
Vict. c. 27.

36. In every case in which any appeal shall be made by any person convicted of any offence under the provisions of this Act to the general or quarter sessions it shall be lawful for the convicting justices, if no other fit and proper person shall appear to prosecute such charge, and to carry on such proceedings as may be necessary to obtain at such session an adjudication thereon, to order that a constable of the City of London police force within the City of London and liberties thereof, or a constable of the metropolitan police force within the metropolitan police district, or if elsewhere the superintendent or inspector of police of the district, or the constable or other peace officer of the parish or place in which the house kept by the person charged shall be situate, as to the said justices shall seem fit, shall carry on all proceedings necessary to obtain such adjudication as aforesaid, and to bind any such constable, or the said superintendent or inspector of police, or other peace officer, in a sufficient recognisance so to do ; and it shall be lawful for the justices before whom such offender shall have been convicted to order the treasurer of the county or place in and for which such justices shall then act to pay to such constable, superintendent, inspector, or other peace officer, and to the witnesses on his behalf, such sum or sums of money as to the court shall appear to be sufficient to reimburse them respectively the expenses which they shall have been severally put to in and about such prosecution, which order the clerk of the peace is hereby directed and required forthwith to make out, and to deliver to such constable, superintendent, inspector, or other peace officer and witnesses respectively ; and the said treasurer is hereby authorised and required, upon sight of such order, forthwith to pay to the person authorised to receive the same such money as aforesaid, and the said treasurer shall be allowed the same in his accounts.

Proceedings on appeal to be carried on by the constable, and the expenses of prosecution to be charged on county rates.

37. It shall be lawful for the said lord mayor or alderman, and for the justices of the peace before whom respectively any question shall be depending touching any objection against the granting or renewing of a license under the provisions of this Act, to summon witnesses on

Power to lord mayor, alderman, or justices of the peace to summon witnesses and examine them on oath.

**23 & 24
Vict. c. 27.**

behalf of either party to such question, and to examine all such witnesses on oath, and to do and perform all things necessary for the due and proper hearing and determination of such question, and also to order payment of fees, allowances, and reasonable expenses to their clerks, and to all witnesses, constables, and other persons by whom any duties shall have been performed or expenses or loss of time incurred respectively under this Act; and the amount of such fees, allowances, and expenses shall be ascertained according to the tables of fees and allowances for the time being in force in the county, city, or borough respectively within which the refreshment-house in question shall be situate; and the order for payment may be made at the discretion of the said lord mayor, alderman, or justices, either wholly or partially, on the applicant or on the objector, or, if the equity of the case shall seem so to require, then on the treasurer of the county, city, or borough aforesaid, who shall be reimbursed out of the county or borough rate; and the provisions of the Act passed in the eleventh and twelfth years of the reign of Her Majesty, chapter forty-three, for the recovery of costs ordered by justices in petty sessions to be paid, shall apply to all costs, allowances, and expenses ordered to be paid under this Act.

Penalty on witnesses refusing to attend or to give evidence.

38. Any person summoned as a witness to give evidence before the said lord mayor or alderman, or any justices or sessions, touching any matters arising under this Act, either on the part of the complainant or of the person accused, or of any person interested in any such matter, who shall neglect or refuse to appear at the time and place for that purpose appointed, and who shall not make such reasonable excuse for such neglect or refusal as shall be admitted and allowed by such lord mayor or alderman or justices or sessions, or who appearing shall refuse to be examined on oath or affirmation and give evidence, shall, on conviction, forfeit and pay any sum not exceeding ten pounds for every such offence.

Penalty on drunken and disorderly persons refusing to quit licensed houses on request.

41. Any person who shall be drunk, riotous, quarrelsome, or disorderly in any shop, house, premises, or place licensed for the sale of beer, wine, or spirituous liquors by retail to be consumed on the premises, or for refreshment, resort, and entertainment under the provisions of this Act, and shall refuse or neglect to quit such shop, house, premises, or place upon being requested so to do by the manager or occupier, or his agent or servant, or by any

constable, shall, on conviction thereof before one justice, be liable to pay a fine not exceeding forty shillings; and all constables are hereby authorised, empowered, and required, on the demand of such manager, occupier, agent, or servant, to assist in expelling such drunken, riotous, quarrelsome, and disorderly persons from such shops, houses, premises, and places.

**23 & 24
Vict. c. 27**

Constables to assist in expelling them if required.

42. And with regard to all penalties incurred under this Act, except the penalties herein denominated excise penalties, all the provisions contained in the Act passed in the eleventh and twelfth years of Her Majesty, chapter forty-three, relating to proceedings for the recovery of penalties by summary conviction, and to appeals against such convictions, and the levying and enforcing of penalties, and the costs of such proceedings, shall be applied and put in force in relation to the penalties by this Act imposed.

Provisions of 11 & 12 Vict. c. 43, to be applied in the recovery of penalties under this Act.

43. The penalties imposed by this Act denominated excise penalties shall be recovered, levied, mitigated, and applied by the same ways, means, and methods, and in like manner, as penalties may be recovered, levied, mitigated, and applied under the laws of excise in that behalf.

How excise penalties under this Act are to be recovered, etc.

44. Provided always, that any covenant or clause of restriction contained in any lease or contract between a landlord and tenant, whereby the trade or business of a vintner is prohibited from being carried on in any house, building, or place mentioned or comprised in such lease or contract, or whereby any such house, building, or place is prohibited from being used as a public-house, shall be construed to apply and extend to every person who shall be licensed to sell wine to be consumed on the premises under the provisions of this Act, and to any house specified in the license granted to such person.

Covenants against houses, etc., being used as public houses to extend to persons licensed to sell wine under this Act.

45. Nothing in this Act contained shall extend to alter or in any manner to affect any of the rights or privileges of the Universities of Oxford or Cambridge, or the powers of the chancellors or vice-chancellors of the same, as by law possessed under the respective charters of the said Universities or otherwise, or the master, wardens, freemen, and commonalty of the Vintners of the City of London, except as to those freemen of the said Company of Vintners who have obtained the same by redemption only, or the mayor or burgesses of the borough of St. Albans in the county of Hertford, or their successors.

Act not to affect the two Universities or the Vintners' Company in London, or the borough of St. Albans.

46. This Act shall not extend to Scotland or Ireland.

Extent of Act.

24 & 25 VICT. c. 21.

*An Act for granting to Her Majesty certain Duties of
Excise and Stamps.* [28th June 1861.]

**24 & 25
Vict. c. 21.**

Grant of duties
specified in
schedules
annexed.

p. 196.

1. There shall be charged, collected, and paid for the use of Her Majesty, her heirs and successors, the several duties of excise . . . specified and contained in the Schedule marked (A.) to this Act annexed, which said duties shall commence and take effect at or from the respective times specified or mentioned in that behalf in the said Schedule; and where with regard to any of such duties no time is so specified for the commencement thereof, the same shall commence and take effect from and after the passing of this Act. . . .

Power to
licensed dealers
in spirits taking
out an addi-
tional license to
retail and send
out foreign or
British spirits in
less quantities
than two
gallons.

p. 196.

Licenses may be
granted for the
sale of table
beer by retail
not to be drunk
on the premises,
without persons
being rated, or
producing
certificate.

p. 184.

Provisions of
former Acts to
apply to this
Act.

2. Any person duly licensed as a dealer in spirits in England may take out an additional license authorising him to sell by retail foreign or British spirits in any quantity not less than one reputed quart bottle, or, as to foreign liqueurs, in the bottles in which the same may have been imported, not to be drunk or consumed upon the premises. . . .

3. It shall be lawful for any person to take out a license for the sale in any house or shop of table beer, at a price not exceeding the rate of one penny halfpenny the quart, and not to be drunk or consumed on the premises where sold; and it shall not be necessary to the obtaining of such license that the said house or shop shall be rated to the relief of the poor to any amount. . . .

4. All the powers, provisions, clauses, regulations, allowances, and exemptions, forfeitures, pains, and penalties contained in or imposed by any Act or Acts, or any Schedule thereto, relating to any duties of the same kind or description as the several rates or duties granted by this Act respectively, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the said duties by this Act granted respectively, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, allowed, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said

last-mentioned duties respectively, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the duties by this Act granted respectively.

24 & 25
Vict. c. 21.

SCHEDULE (A.)

Containing the DUTIES of EXCISE granted by this ACT.

RETAIL LICENSE TO DEALERS IN SPIRITS.

£ s. d.

For and upon every additional excise license to be taken out by any licensed dealer in spirits in Great Britain to authorise and empower him to sell by retail foreign or British spirits in any quantity not less than one reputed quart bottle, or as to foreign liqueurs in the bottles in which the same may have been imported, and not to be drunk or consumed on the premises, the sum of 3 3 0

LICENSE to sell TABLE BEER.

For and upon every excise license to be taken out by any person for the sale in any house or shop of table beer at a price not exceeding the rate of one penny halfpenny the quart, and not to be drunk or consumed on the premises where sold 0 5 0

24 & 25 VICT. c. 91.

An Act to amend the Laws relating to the Inland Revenue.
[6th August 1861].

8. For the amendment of two several Acts passed in the last session of Parliament, chapter twenty-seven and chapter one hundred and seven, be it enacted, that no person shall be compellable to take out a license under either of the said Acts to keep a refreshment-house whose house, room, shop, or building shall not be kept open for public refreshment, resort, and entertainment after the hour of ten of the clock at night; and the said Acts shall be

24 & 25
Vict. c. 91.

Persons not compellable to take out a refreshment house license for a house not kept open after ten o'clock at night.

**24 & 25
Vict. c. 91.**

read and construed as if the word "ten" had been substituted for the word "nine" in the sixth section of the said Acts respectively.

Lower rate of duty on refreshment house licenses for houses under 30l. annual value.

pp. 186, 193.

9. And in lieu of the duties chargeable under the said last-mentioned Acts respectively for every license to keep a refreshment-house there shall be charged the following duties ; that is to say,

If the house and premises in respect of which such license shall be granted shall in England be under the rent and value or in Ireland be under the value of thirty pounds a year, the duty of ten shillings and sixpence :

And if the same shall be of the rent or value of thirty pounds a year or upwards, the duty of one pound and one shilling :

Allowance of duty paid for refreshment house license to be made on taking out wine license.

p. 190.

And whenever any person who shall have taken out a license to keep a refreshment-house, not being a house open after ten o'clock at night, shall apply for and obtain a license under either of the said Acts to sell therein by retail foreign wine to be consumed in such house, he shall be allowed an abatement at the rate per annum hereinafter mentioned from the duty chargeable for such last-mentioned license in respect of the same period of time or portion of the year for which he shall take out the said license to retail wine ; (that is to say,)

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Provided always, that if any person to whom any such abatement as aforesaid shall have been made on taking out a wine license shall keep open his house as a refreshment-house or shall sell therein any wine or other refreshment after the hour of ten of the clock at night, he shall be deemed to keep a refreshment-house without taking out and having in force a proper license in that behalf ; and also in respect of any wine sold by him after the hour aforesaid he shall be deemed to have sold the same without having a proper license in force duly authorising him in that behalf, and shall forfeit the penalties imposed for such offences respectively by the ninth and nineteenth sections of the said Act of the last session of Parliament, chapter twenty-seven.

Persons licensed to retail beer not precluded from taking out wine licenses.

pp. 180, 194.

10. And whereas an Act was passed in the last session of parliament, chapter twenty-seven, for granting to Her Majesty certain duties on wine licenses and refreshment-houses, and doubts have arisen whether persons licensed to

retail beer in England are precluded from taking out or having granted to them a license for the sale of wine under the said Act: for the removal of such doubts be it declared and enacted, that nothing in the said Act or in any other Act or Acts contained shall be adjudged, deemed, or construed to preclude or disqualify any person from taking out or having granted to him any license for the sale of wine under the said Act of the last session of parliament, by reason or on account of his being licensed for the sale of beer under any Act or Acts in that behalf.

24 & 25
Vict. c. 91.

11. No person licensed for the sale of wine under the Act passed in the last session of parliament, chapter twenty-seven, shall be subject or liable to any penalty or forfeiture under any Act relating to the retailing of beer by reason or on account of his selling, dealing in, retailing, or receiving into, or having in his possession any wine, or sweets or made wines, or mead or metheglin, anything in any such Act or Acts as last mentioned to the contrary notwithstanding.

Persons licensed to retail wine not to be subject to penalty under the Beer Acts, for having wine or sweets in possession.

p. 180.

14. Whereas the licenses authorising the retailing of beer granted under the authority of three several Acts passed respectively in the first year of the reign of His late Majesty King William the Fourth, chapter sixty-four, in the fourth and fifth years of the same reign, chapter eighty-five, and in the third and fourth years of the reign of Her present Majesty, chapter sixty-one, are directed by the first of the said Acts to be dated on the day when the same shall be granted, and to expire at the end of twelve calendar months after the day on which such licenses shall be dated, and it is expedient that all such licenses should expire at one and the same period of the year: Be it enacted, that every license taken out under the said recited Acts . . . shall be in force from the day of the date of such license until the 10th day of October next following the granting thereof; . . . and every person who shall . . . take out a license under the said Acts for the first time shall be entitled to the same on payment of a proportionate part of the duty thereon in the same manner as a person commencing a trade or business for which an excise license is required may now take out a license under the provisions contained in the seventeenth section of the Act passed in the sixth year of the reign of King George the Fourth, chapter eighty-one.

All licenses granted under the Acts relating to the retailing of beer to expire on the 10th October in each year.

25 & 26 VICT. c. 22.

An Act to continue certain Duties of Customs and Inland Revenue for the Service of Her Majesty, and to grant, alter, and repeal certain other Duties.

[3rd June 1862.]

**25 & 26
Vict. c. 22.**

Occasional license may be granted to victuallers to sell beer, spirits, etc., at such time and place as the Commissioners of Inland Revenue shall approve.

p. 200.

13. It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it conducive to public convenience, comfort, and order, and with the consents in writing of *two justices*⁽¹⁾ of the peace usually acting at the petty sessions for the petty sessional division within which the place of sale is situate, to authorise any officer of excise to grant to any person who shall be duly authorised to keep a common inn, alehouse, or victualling-house, and who shall have taken out the proper excise licenses to sell therein beer, spirits, wine, or tobacco, an occasional license under this Act empowering him to sell the like articles for which he shall have taken out such licenses as aforesaid at any such other place, and for and during such space or period of time, not exceeding three consecutive days at any one time, as the said commissioners shall approve, and as shall be specified in such occasional license; and any person who shall have taken out such occasional license shall not be liable to any penalty or forfeiture whatever by reason or on account of his selling the articles mentioned in the said license during the time and at the place specified therein; provided that no such occasional license shall authorise the sale of any beer, spirits, or wine, except during the hours after sunrise and before sunset⁽²⁾; and provided that the said license shall not protect any such person in the sale of any of the articles herein mentioned, unless he shall at the time of such sale produce such license when requested to do so by any officer of excise, or by any constable or police officer; nor shall any such license be granted for the sale of any of the articles herein mentioned on any Sunday, Christmas Day, or Good Friday, or any day appointed for a public fast or thanksgiving; provided also, that the provisions of this clause shall not extend to Scotland.

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(1) Now one justice. See 26 & 27 Vict. c. 33, s. 20.

(2) Now one hour after sunset, *ibid.*

15. The provisions contained in the twenty-first section of the Act passed in the sixth year of the reign of King George the Fourth, chapter eighty one, relating to the transfer of excise licenses in the case of the removal of any person from the house or premises at which he shall be licensed under that Act, shall be and the same are hereby extended to licenses granted under the Act passed in the twenty-third year of the reign of her present Majesty, chapter twenty-seven, and the Act passed in the twenty-third and twenty-fourth years of her said Majesty's reign, chapter one hundred and seven, respectively: Provided that no license granted under either of the two last-mentioned Acts for the sale of foreign wine by retail to be consumed upon the premises where the same shall be sold shall be transferred by the officers of excise, unless the assignee of such license shall be duly licensed to keep a refreshment house, nor unless he shall produce to such officers a certificate from a justice of the peace acting for the city, borough, town, or place in which the house and premises are situated, that such justice does not object to such transfer being made, and provided that no such license so transferred shall authorise the assignee to carry on the business mentioned therein for a longer period than five weeks from the date of such transfer, unless he shall in the meantime have qualified himself to become the holder of a license of the like kind according to the provisions of the said respective Acts.

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26 & 27 VICT. CAP. 33.

An Act for granting to Her Majesty certain Duties of Inland Revenue; and to amend the Laws relating to the Inland Revenue.

[29th June 1863.]

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1. From and after the passing of this Act any person who, in England or Ireland, shall have taken out an excise license to sell strong beer in casks containing not less than four and a half gallons or in not less than two dozen reputed quart bottles at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional

25 & 26
Vict. c. 22.

Licenses granted under 23 Vict. c. 27, and 23 & 24 Vict. c. 107, may be transferred as other excise licenses in case of the removal of the licensed person.

26 & 27
Vict. c. 33.

Licensed beer dealers may take out additional license to sell beer by retail not to be consumed on the premises.

p. 185.

**26 & 27
Vict. c. 33.**

license on payment of the exeise duty ⁽¹⁾, and the same shall authorise such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold; and such additional license shall be granted without the production of any certificate or the possession of any other qualification than the license herein first mentioned. ⁽²⁾

Licenses
granted to
refreshment
house keepers
to retail foreign
wine to include
the sale of
sweets and
made wines.

p. 189.

18. Every license taken out under the provisions contained in the two several Acts passed in the twenty-third and twenty-fourth years of Her Majesty's reign, chapter twenty-seven and chapter one hundred and seven respectively, by a licensed keeper of a refreshment house, to sell therein by retail foreign wine, to be consumed in such house or on the premises belonging thereto, shall authorise and include the sale of sweets and made wines, mead, and metheglin, by retail, to be consumed in the said house or on the said premises.

Alteration of
duty on a
victualler's
occasional
license.

p. 201.

19. There shall be charged and paid the following duty; (that is to say),

For and upon every occasional license to be granted to any person who shall be duly authorised to keep a common inn, alehouse, or victualling house, and licensed to sell therein beer, spirits, wine, or tobacco, to sell the like articles for which he shall be so licensed at any such other place, and for and during such space or period of time not exceeding six days as shall be specified in such occasional license, the sum of two shillings and sixpence for every day so specified as aforesaid for which the same shall be granted :

Provided always, that when any person shall have taken out such an occasional license for six successive days, and shall desire to take out another occasional license for a time in immediate succession, or only separated by the intervention of Sundays and holidays, then the duty chargeable for every license after the first, and for any number of days not exceeding six, shall not exceed ten shillings.

Alteration of
the law relating
to occasional
licenses.

p. 200.

20. Whereas it is expedient to alter and amend the conditions and restrictions upon and under which occasional licenses to sell beer, spirits, or wine may be granted and

(1) See 43 & 44 Vict. c. 20, s. 41.

(2) See 32 & 33 Vict. c. 27, ss. 4, 5, and 33 & 34 Vict. c. 29, s. 10.

used, as provided by the thirteenth section of the Act passed in the twenty-fifth and twenty-sixth years of Her Majesty's reign, chapter twenty-two: Be it enacted as follows: 26 & 27
Vict. c. 33.

1. That the consent of one justice of the peace, as in the said section mentioned, only, shall be necessary :
2. That the hours during which such occasional license shall authorise the sale of any beer, spirits, or wine shall extend from sunrise to one hour after sunset :
3. That upon the occasion of any public dinner or ball it shall be lawful for the person who shall have obtained an occasional license under the provisions of the said Act to sell the said liquors during such hours before or after sunrise or sunset as shall be allowed and specified in that behalf in the consent to be given by the justice of the peace for the granting of such occasional license.

26. All the powers, provisions, clauses, regulations, forfeitures, pains, and penalties contained in or imposed by any Act or Acts relating to any duties of the same kind or description as the several rates or duties granted by this Act respectively, and in force at the time of the passing of this Act, and not hereby expressly repealed, shall respectively be in full force and effect with respect to the said rates and duties by this Act granted respectively, so far as the same are or shall be applicable, in all cases not hereby expressly provided for, and shall be observed, applied, enforced, and put in execution for and in the raising, levying, collecting, and securing of the said last-mentioned rates and duties, and otherwise in relation thereto, so far as the same shall not be superseded by and shall be consistent with the express provisions of this Act, as fully and effectually to all intents and purposes as if the same had been herein repeated and specially enacted, *mutatis mutandis*, with reference to the rates and duties by this Act granted respectively. Provisions of
former Acts to
apply to this
Act.

27 & 28 VICT. c. 18.

An Act to grant certain Duties of Customs and Inland Revenue.

[13th May 1864.]

*Excise Licenses.*27 & 28
Vict. c. 18.

Occasional licenses may be granted to persons who have taken out licenses under 23 & 24 Vict. cc. 27 and 107 (Refreshment Houses and Wine Retailers); or under 4 & 5 Vict. c. 85 (Beer Retailers).

p. 200.

5. It shall be lawful for the Commissioners of Inland Revenue, whenever they shall consider it necessary for the accommodation of the public, to authorise any officer of excise to grant (upon payment of the respective duties in that behalf mentioned in Schedule (B.) to this Act) an occasional license in the several and respective cases hereinafter mentioned; (that is to say,) to any person who shall have taken out an excise license under the Acts passed in the twenty-third year of the reign of Her Majesty, chapter twenty-seven, and the twenty-third and twenty-fourth years of the same reign, chapter one hundred and seven, respectively, to keep a refreshment house, or to sell by retail in a refreshment house foreign wine to be consumed therein; or an excise license under the Act passed in the fourth and fifth years of the reign of King William the Fourth, chapter eighty-five, to retail beer to be drunk or consumed in or upon the house or premises where sold; or an excise license under the Act passed in the sixth year of the reign of King George the Fourth, chapter eighty-one, to deal in or sell tobacco or snuff; and every such occasional license shall authorise any such person as aforesaid to exercise and carry on the same trade and business as he shall be authorised to carry on by virtue of the license granted under the said Acts respectively as aforesaid at any such place (other than the place for which his original license was granted), and for and during such space or period of time, not exceeding three consecutive days at any one time, as the said Commissioners shall approve, and as shall be specified in such occasional license; provided that the said occasional license shall not protect any such person in the carrying on of any such trade or business as aforesaid unless he shall produce such license whenever requested so to do by any officer of excise, or by any constable or police officer, at the time of exercising such trade or business; and provided also, that the conditions and restrictions contained in the twentieth section of the Act of the twenty-sixth and twenty-seventh years of Her Majesty's reign, chapter thirty-three, relating to occasional licenses, shall apply to the occasional licenses to be granted under this Act (except in the case of occasional licenses to sell tobacco or snuff).

SCHEDULE (B.)

27 & 28
Vict. c. 18.

Containing the Duties of Excise granted by this Act ;
that is to say,

* * *

On occasional licenses to refreshment house keepers, wine
retailers, beer retailers, and tobacco dealers ; (that is
to say,)

£ s. d.

For and upon every occasional license to
the keeper of a refreshment house, for
each and every day for which such
license shall be granted . . . Nil.

For and upon every occasional license to
retail foreign wine to be consumed at
the place where sold, for each and every
day for which the same shall be granted 0 1 0

For and upon every occasional license to
retail beer to be consumed at the place
where sold, for each and every day for
which the same shall be granted . . . 0 1 0

For and upon every occasional license to
deal in or sell tobacco or snuff, for each
and every day for which the same shall
be granted 0 0 4

* * *

PUBLIC HOUSE CLOSING ACT, 1865.

(27 & 28 VICT. c. 64.)

*An Act for further regulating the closing of Public Houses
and Refreshment Houses within the Metropolitan
Police District, the City of London, certain Corporate
Boroughs, and other Places.* [25th July 1864.]

27 & 28
Vict. c. 64.

1. This Act may be cited for all purposes as the
“Public House Closing Act, 1864.”

Short title.

4. “Refreshment house” shall in this Act have the
same meaning as it has in the Act passed in the session
holden in the twenty-third year of the reign of her present
Majesty, chapter twenty-seven, intituled “An Act for
granting to Her Majesty certain Duties on Wine Licenses
and Refreshment Houses, and for regulating the licensing

Definition of
“refreshment
houses,” etc.

27 & 28 of Refreshment Houses and the granting of Wine Licenses :”
Vict. c. 64. “Exciseable liquor” shall mean any spirits, foreign wine, beer, cider, sweets, or made wines, as defined by the Acts relating to the excise.

As to the closing
of public houses
and refresh-
ment houses.

p. 187.

5. Save as hereinafter mentioned, no licensed victualler within the limits of this Act shall sell or expose for sale or open or keep open any house, room, garden, or other place for the sale or consumption of exciseable liquors or any article whatsoever between the hours of *one* ⁽¹⁾ and four o'clock in the morning.

No person within the limits of this Act shall open or keep open any refreshment house, or sell or expose for sale or consumption in any refreshment house any refreshments or any article whatsoever between the above-mentioned hours.

Any person acting in contravention of this section shall be liable to a penalty not exceeding five pounds, to be recovered in a summary manner as provided by the Act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three.

Nothing herein contained shall preclude a licensed victualler from selling exciseable liquors to or allowing the same to be consumed by persons lodging in his house, or the keeper of a refreshment house from selling refreshments to or allowing the same to be consumed by persons lodging in his house, within the above-mentioned hours.

Nothing herein contained shall authorise a licensed victualler to sell exciseable liquors on any Sunday, Christmas Day, Good Friday, or day appointed for public fast or thanksgiving, otherwise than during the times at which he is now authorised by law to sell the same, or authorise any other person to sell exciseable liquors, keep open any refreshment house, or sell refreshments otherwise than at the times and upon the conditions prescribed by the Acts of Parliament in that behalf made.

Occasional
license.

p. 187.

7. If any licensed victualler or keeper of a refreshment house as aforesaid within the limits of this Act applies to the local authority hereinafter mentioned for a license exempting him from the provisions of this Act on any special occasion or occasions, it shall be lawful for the local authority, if in its discretion it thinks fit so to do, to grant to the applicant an occasional license exempting him from the provisions of this Act during certain hours and on a

¹ See Licensing Act, 1874, s. 11.

special occasion or occasions to be specified in the license ; and no licensed victualler or keeper of a refreshment house to whom an occasional license has been granted under this Act shall be subject to any penalty for a contravention of this Act during the time to which his occasional license extends, but he shall not be exempted by such occasional license from any penalty to which he may be subject under any other Act of Parliament.

27 & 28
Vict. c. 64.

8. The following persons and bodies of persons shall be deemed to be local authorities capable of granting occasional licenses for the purposes of this Act ; that is to say,

Definition of
"local
authority."

- (1.) In the metropolitan police district, the Commissioner of Police for the metropolis, subject to the approbation of one of Her Majesty's principal Secretaries of State :
- (2.) In the city of London and the liberties thereof, the Commissioner of City Police, subject to the approbation of the Lord Mayor of the said city.

* * * *

10. Nothing herein contained shall apply to the sale at a railway station between the hours of *one** and four o'clock in the morning of exciseable liquors or refreshments to persons arriving at or departing from such station by railroad.

Not to apply to
sales at railway
stations be-
tween one and
four in the
morning.

p. 187.

PUBLIC HOUSE CLOSING ACT, 1865.

(28 & 29 VICT. c. 77.)

An Act to amend the Act of the Twenty-seventh and Twenty-eighth Victoria, Chapter Sixty-four, commonly called "The Public House Closing Act, 1864."

[29th June 1865.]

WHEREAS it is expedient to amend "The Public House Closing Act, 1864" : Be it therefore enacted as follows :

1. This Act may be cited for all purposes as the "Public House Closing Act, 1865."

28 & 29
Vict. c. 77.

Short title.

* See Licensing Act, 1874, s. 11.

**28 & 29
Vict. c. 77.**

Power to
justices to
grant licenses
to licensed
victuallers and
refreshment
house keepers
suspending
operation of
recited Act.

p. 187.

2. It shall be lawful for the licensing justices at the time of granting or renewing any license, upon the production of such evidence as they shall deem sufficient to show that it is necessary or desirable, for the accommodation of any considerable number of persons attending any public market, or following any lawful trade or calling, if, in the discretion of such justices, they shall think fit, to grant to any licensed victualler or keeper of a refreshment house whose place of business is in the immediate neighbourhood of such market, or of the place where the persons follow such lawful trade or calling, a license exempting him from the provisions of the hereinbefore-mentioned Act between the hours of two and four o'clock in the morning, or any part of such hours, during such days, times, or hours as shall be specified in such license; and no licensed victualler or keeper of a refreshment house to whom such license has been granted under this Act shall be subject to any penalty for a contravention of the hereinbefore-mentioned Act during the days or times to which such license extends, but he shall not be exempted by such license from any penalty to which he may be subject under any other Act of Parliament; provided that a printed notice stating the days and special hours during which and the class of persons for whom the house is open under such license shall be affixed in a conspicuous position outside the house.

Power to
withdraw
such license.

3. It shall be lawful for such justices, from time to time, as and when it may seem fit to them, either to withdraw such license altogether, or to alter, vary, or amend the same in such manner as such justices may deem necessary or expedient.

Justices of the
peace to grant
licenses.

5. So much of the eighth clause of the said recited Act as defines the local authority to be a commissioner, superintendent, or other chief officer of police shall be repealed, and instead thereof the local authority shall be, in any district, city, or town where petty sessions are held, except in the metropolitan police district, two justices of the peace sitting in petty sessions, and in any other district, city, or town, two justices of the peace acting in the district, city, or town.

Act to be con-
strued with
recited Act.

6. This Act shall be deemed, construed, and taken as part of the said hereinbefore-mentioned Act.

30 & 31 VICT. c. 90.

An Act to alter certain Duties and to amend the Laws relating to the Inland Revenue. [12th August 1867.]

17. If any person shall solicit, take, or receive any order for spirits, wine, or other article, for the dealing in, retailing, or selling whereof an excise license is by law required, without having in force a proper excise license authorising him so to do, he shall forfeit the penalty imposed by law upon a person dealing in, retailing, or selling such article without having an excise license in force authorising him so to do; and in any case in which the place of business or residence of the offender shall not be known to the officer of excise who shall exhibit any information for the recovery of such penalty as aforesaid, or, if known, shall be out of the United Kingdom, it shall be sufficient service of the notice and summons required to be given to a defendant by any law of excise if the same be left at the house or place where the offender shall have solicited, taken, or received any such order as aforesaid, addressed to such offender: Provided always, that nothing herein contained shall be deemed to apply to the sale of any spirits or foreign wine while the same shall be and remain in the warehouse or warehouses in which the same shall have been deposited, lodged, or secured according to law, before payment of duty upon the importation thereof, where such spirits or foreign wine shall be sold in a quantity not less than one hundred gallons at one time, or to impose a penalty upon a *bonâ fide* traveller taking orders for goods which his employer is duly licensed to deal in or sell.

30 & 31
Vict. c. 90.

Penalty upon
unlicensed
persons (not
being travellers
for licensed
persons) solicit-
ing orders for
spirits, wine,
etc.

p. 182.

WINE AND BEERHOUSE ACT, 1869.
(32 & 33 VICT. c. 27.)

An Act to amend the law for licensing Beerhouses, and to make certain alterations with respect to the Sale by retail of Beer, Cider, and Wine. [12th July 1869.]

* WHEREAS by the Acts relating to the general sale of beer and cider by retail in England; (that is to say,)

- (1.) An Act of the session of the last year of the reign of King George the Fourth and the first year of the reign of King William the Fourth, chapter

32 & 33
Vict. c. 27.

11 Geo. IV, and
1 Will. IV,
c. 64.

* Preamble repealed by 56 & 57 Vict. c. 54.

**32 & 33
Vict. c. 27.**4 & 5 Will. IV,
c. 85.3 & 4 Vict.
c. 61.24 & 25 Vict.
c. 21.26 & 27 Vict.
c. 33.23 & 24 Vict.
c. 27.

sixty-four, intituled "An Act to permit the general sale of beer and cider by retail in England ;"

- (2.) An Act of the session of the fourth and fifth years of the reign of King William the Fourth, chapter eighty-five, intituled "An Act to amend an Act passed in the first year of his present Majesty, to permit the general sale of beer and cider by retail in England ;"
- (3.) An Act of the session of the third and fourth years of the reign of her present Majesty, chapter sixty-one, intituled "An Act to amend the Acts relating to the general sale of beer and cider by retail in England ;"
- (4.) An Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter twenty-one, intituled "An Act for granting to Her Majesty certain duties of exeise and stamps ;"

provision is made for the grant of lieenses by the exeise for the sale by retail of beer and cider upon the terms and conditions therein specified :

And whereas by an Act of the session of the twenty-sixth and twenty-seventh years of the reign of her present Majesty, chapter thirty-three, intituled "An Act for granting to Her Majesty certain duties of inland revenue, and to amend the laws relating to the inland revenue," it is enacted, that any person who after the passing of that Act has taken out an exeise license to sell strong beer in casks containing not less than four and a half gallons, or in not less than two dozen reputed quart bottles, at one time, to be drunk or consumed elsewhere than on his premises, may take out an additional lieense on payment of the exeise duties therein mentioned, and that the same shall authorise such person to sell beer in any less quantity and in any other manner than as aforesaid, but not to be drunk or consumed on the premises where sold, and that such additional license shall be granted without the production of any certificate, or the possession of any other qualification than the license therein first mentioned :

And whereas provision is made for the grant of lieenses by the exeise for refreshment houses and for the sale of wine by retail, and for other purposes, by an Act of the session of the twenty-third year of the reign of her present Majesty, chapter twenty-seven, intituled "An Act for granting to Her Majesty certain duties on wine lieenses and refreshment houses, and for regulating the lieensing of refreshment houses, and the granting of wine lieenses."

And whereas it is expedient to make better provision with regard to the granting of the licenses hereinbefore mentioned, and for regulating the houses and shops in which beer, cider, and wine are sold by retail :

32 & 33
Vict. c. 27.

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

1. This Act shall not apply to Scotland or Ireland. Application of Act.
2. For the purposes of this Act the term "beer" shall include ale and porter, and the term "cider" shall include perry. Definition of "beer" and "cider."
3. This Act may be cited as "The Wine and Beerhouse Act, 1869." Short title.

4. No license or renewal of a license for the sale by retail of beer, cider, or wine, or any of such articles, under the provisions of any of the said recited Acts shall (save as is in this Act otherwise provided) be granted except upon the production and in pursuance of the authority of a certificate granted under this Act. Retail licenses not to be granted without certificate of justice.
p. 6.

Any license granted or renewed in contravention of this enactment shall be void.

5. Certificates under this Act shall be granted by the justices assembled at the general annual licensing meeting held in pursuance of an Act of the session of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled "An Act to regulate the granting of licenses to keepers of inns, alehouses, and victualling houses in England," or at some adjournment of such meeting held in pursuance of the said last-mentioned Act. . . . Certificates to be granted by justices under 9 Geo. IV, c. 61.
p. 6.

6. A certificate under this Act shall specify the name and address of the person thereby authorised to receive a license, the description of license or licenses authorised to be granted to him, and whether such license or licenses is or are to be granted for the sale of beer, cider, or wine to be consumed on or off the premises, and the situation of the house or shop in respect of which such grant is authorised. It shall be in force for one year from the date of its being granted. Form of certificate.

7. Every person intending to apply to the justices for a certificate under this Act shall, twenty-one days at least Notice of application.
p. 28.

32 & 33
Vict. c. 27.

before he applies, give notice in writing of his intention to one of the overseers of the parish, township, or place in which the house or shop in respect of which his application is to be made is situate, and to *some constable or peace officer acting within such parish, township, or place*, (a) and shall in such notice set forth his name and address, and a description of the license or licenses for which he intends to apply, and of the situation of the house or shop in respect of which the application is to be made; and in the case of a house or shop not theretofore licensed for the sale by retail of beer, cider, or wine, such person shall also within the space of twenty-eight days before such application is made cause a like notice to be affixed and maintained between the hours of ten in the morning and five in the afternoon of two consecutive Sundays on the door of such house or shop, and on the principal door or on one of the doors of the church or chapel of the parish or place in which such house or shop is situate, or, if there be no such church or chapel, on some other public and conspicuous place within such parish or place (b).

Where application is made to the justices for the grant of a certificate under this Act by way of renewal only, notice in pursuance of this section shall not be requisite.

Provisions of 9
Geo. IV, c. 61,
to apply to
grants of
certificates
under this Act.

p. 67.

8. All the provisions of the said Act of the ninth year of the reign of King George the Fourth as to the terms upon which, and the manner in which, and the persons by whom, grants of licenses are to be made by the justices at the said general annual licensing meeting, and as to appeal from any act of any justice, shall, so far as may be, have effect with regard to grants of certificates under this Act, subject to this qualification, that no application for a certificate under this Act in respect of a license to sell by retail (c) . . . cider, or wine not to be consumed on the premises shall be refused, except upon one or more of the following grounds; viz.,

Off license not
to be refused
except on one
of four grounds.

p. 67.

- (1.) That the applicant has failed to produce satisfactory evidence of good character:
- (2.) That the house or shop in respect of which a license is sought, or any adjacent house or shop owned or occupied by the person applying for a license, is of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character:
- (3.) That the applicant having previously held a license for the sale of wine, spirits, beer, or cider, the

(a) Read "Superintendent of police of the district," 33 & 34 Vict. c. 29, s. 4 (1).

(b) For additional requisites, see L.A. 1872, s. 40.

(c) See 56 & 57 Vict. c. 61.

same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such license, or from selling any of the said articles: **32 & 33 Vict. c. 27.**

- (4.) That the applicant, or the house in respect of which he applies, is not duly qualified as by law is required:

Where an application for any such last-mentioned certificate is refused on the ground that the house in respect of which he applies is not duly qualified as by law is required, the justices shall specify in writing to the applicant the grounds of their decision.

11. If any person forge, or tender knowing the same to have been forged, any certificate authorised to be granted by this Act, he shall, on summary conviction before two or more justices, be liable to a penalty not exceeding twenty pounds, or, in the discretion of the justices before whom he is tried, to imprisonment for any period not exceeding six months, with or without hard labour. Any license granted in pursuance of such forged certificate shall be void, and any person making use of such forged certificate, knowing the same to have been forged, shall be disqualified from obtaining at any time thereafter a license for the sale of beer, cider, or wine by retail under any of the said recited Acts. **Penalty on forgery of certificate. p. 108.**

19. Where, on the 1st of May, 1869, a license under any of the said recited Acts is in force with respect to any house or shop for the sale by retail therein of beer, cider, or wine to be consumed on the premises, it shall not be lawful for the justices to refuse an application for a certificate for the sale of beer, cider, or wine to be consumed on the premises in respect of such house or shop, except upon one or more of the grounds upon which an application for a certificate under this Act in respect of a license for the sale of beer, cider, or wine, not to be consumed on the premises, may be refused, in accordance with this Act: Provided that where a person licensed in respect of such house or shop to sell therein by retail beer, cider, or wine to be consumed on the premises is convicted, after the passing of this Act, of more than one offence against the tenor of his license, or of more than one offence for which any penalty is imposed by any of the said recited Acts, the justices by whom such person is convicted may, if they think fit, order that the house or shop shall, for the purposes of this section, be thenceforth deemed to be a house or shop in respect of which no license for the sale by retail of beer, cider, or wine was in force at the time of the passing of this Act: Provided always, that every holder of **Renewals of beer or wine licenses in force in 1869 not to be refused except on one of four grounds in s. 8 mentioned. p. 68.**

32 & 33
Vict. c. 27.

such license shall, when required by any two justices, be bound to produce his license under a penalty not exceeding ten pounds, to be levied in default of payment, on the order of such justices, by distraint upon his goods and chattels; and provided also, that no conviction under the powers and provisions of this Act shall be deemed to affect any license in force as aforesaid, unless the justices by whom such conviction was adjudged shall have directed their clerk to record and the clerk shall have recorded on the license the fact of that conviction.

Nothing to
affect privileges
and rights
herein named.

20. Nothing in this Act contained shall be deemed to affect—

- (1.) The privileges heretofore enjoyed by any university in England, or the chancellor, masters, and scholars of the same, or their successors:
- (2.) The privileges heretofore enjoyed by the masters, wardens, freemen, and commonalty of the Vintners of the city of London, except as to those freemen of the said vintners who have obtain their freedom by redemption only:
- (3.) The privileges heretofore enjoyed by the mayor or burgesses of the city of St. Albans, in the county of Hertford, or their successors:
- (4.) The right of any person who is duly authorised by justices of the peace to keep a common inn, ale-house, or victualling house to take out any excise license:
- (5.) The grant of any occasional license, or the power of any person duly authorised by the excise to sell beer, spirits, or wine at any fair or public races.

As to repeal of
Acts set forth
in second
schedule.

21.* The several parts of the Acts set forth in the second schedule hereto shall be repealed to the extent therein specified so far as relates to any license under any of the said recited Acts granted after the passing of this Act within any place to which this Act applies: Provided that such repeal shall not affect—

- (1.) Any liability incurred or thing duly done before the commencement of this Act:
- (2.) Any penalty, forfeiture, or other punishment incurred in respect of any offence committed before the commencement of this Act:
- (3.) Any legal proceeding or legal remedy for enforcing or recovering any such liability, thing, penalty, forfeiture, or punishment as aforesaid.

SECOND SCHEDULE.*

32 & 33
Vict. c. 27.

Acts repealed.	Title of Act.	Extent of Repeal.
11 Geo. 4 & 1 Will. 4, c. 64.	An Act to permit the general sale of beer and cider by retail in England.	So much of section two as requires the grant of an excise license under the provisions of the Act to be made within ten days after application has been made for the same.
4 & 5 Will. 4, c. 85.	An Act to amend an Act passed in the first year of His present Majesty to permit the general sale of beer and cider by retail in England.	Sections two, three, eight, and nine.
3 & 4 Vict. c. 61.	An Act to amend the Acts relating to the general sale of beer and cider in England.	Sections two, three; so much of section four as enacts that in any extra-parochial place or places where no rates are made or collected for the relief of the poor a person applying for a license shall produce to and deposit and leave with the proper officer of excise granting such license a certificate in writing, signed by two inhabitant householders of the township or place, certifying that the party applying is the real resident in and occupier of the dwelling-house sought to be licensed, and also certifying the true and real annual value of the same with the premises occupied therewith, according to the best of their judgment and belief; sections five and six.
23 Vict. c. 27.	An Act for granting to Her Majesty certain duties on wine licenses and refreshment houses, and for regulating the licensing of refreshment houses and the granting of wine licenses.	Sections thirteen, fourteen, and fifteen.
24 & 25 Vict. c. 21.	An Act for granting to Her Majesty certain duties of excise and stamps.	So much of section three as renders it unnecessary that the person applying for a license shall produce any certificate.

* Repealed by 46 & 47 Vict. c. 39.

HIGH CONSTABLES ACT, 1869.

(32 & 33 VICT. c. 47.)

An Act to provide for the discharge of the duties heretofore performed by high constables, and for the abolition of such office, with certain exceptions.

[2nd August 1869.]

**32 & 33
Vict. c. 47.**

Interpretation
of terms.

1. For the purposes of this Act the word "high constable" shall include any constable of any hundred or other like district, and any officer discharging the duties usually performed by high constables by whatever name such officer shall be called; and the word "county" shall include any riding, division, liberty, and place having separate quarter sessions of the peace.

How notices
are to be sent.
p. 6.

3. It shall be the duty of the clerk to the justices of the peace in each petty sessional division, other than those which are either wholly or partly within the metropolitan police district or the city of London, to send by post to the proper parties in such division all notices of the holding of special or other sessions, of days of appeal, and of any other matter or thing (except such as relate to claims against the hundred or other like district, or to parliamentary or municipal elections, or the registration of electors), of which notices are now by law or custom served upon or sent to any parochial officer or other person by high constables, and no precept or notice to perform any such duty in any such division shall hereafter be issued to any high constable, after the passing of this Act.

WINE AND BEERHOUSE ACT AMENDMENT ACT, 1870.

(33 & 34 VICT. c. 29.)

An Act to amend and continue "The Wine and Beerhouse Act, 1869."

[14th July 1870.]

**33 & 34
Vict. c. 29.**

Short title.

1. This Act may be cited as "The Wine and Beerhouse Act Amendment Act, 1870."

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Interpretation
of terms.

3. In this Act the words "the principal Act" mean the Wine and Beerhouse Act, 1869, and the word "sweets" includes sweets, made wines, mead and metheglin.

4. The provisions of the principal Act, with reference to the grant, duration, and transmission of certificates, shall be amended as follows ; (that is to say,) **33 & 34 Vict. c. 29.**

Amendment of provisions of principal Act as to grants, duration, and transmissions of certificates.

- (1.) The seventh section of the principal Act shall be read as if for the words "constable or peace officer acting within such parish, township, or place," there were substituted the words "the superintendent of police of the district," and the notice required by that section to be given to any overseer or constable may be served by a registered letter through the post : **p. 29.**
- (2.) Where a certificate is now required to be signed by a majority of justices, it shall be sufficient if, instead of such signature, the concurrence of such majority be signified by means of an impression from an official seal or stamp, in such form as the justices may direct, affixed in the presence of the justices in sessions assembled, and verified in the case of each certificate by the signature of their clerk. Any seal purporting to be so affixed and verified shall be received in evidence without further proof ; and if any unauthorised person imitate or affix an impression of such seal on any certificate or imitation of a certificate, or knowingly use a certificate or imitation of a certificate falsely purporting to be sealed in pursuance of this section, he shall be guilty of forgery : **p. 17.**
- (3.) For every certificate granted by way of renewal under the principal Act or this Act, there shall be payable to the clerk of the justices the sum of four shillings for all matters to be done by such clerk, and one shilling for the constable or officer for service of notices ; and if any clerk of justices demand or receive any greater or further fee or payment in respect of any such renewal, whether for himself or for any other officer or person, he shall, upon summary conviction, be liable to a penalty of five pounds : **p. 108.**
- (4.) It shall be in the discretion of the justices to whom an application for a transfer is made, either to allow or refuse the application, or to adjourn the consideration thereof : **p. 59.**
- (5.) [The proviso of the fifth section of the principal Act and the ninth section of the principal Act shall be repealed, and,] * subject to the provisions of **p. 69.**

* The words in brackets are repealed by 16 & 17 Vict. c. 39.

**33 & 34
Vict. c. 29.**

this section, all the provisions of the Act of the ninth year of George the Fourth, chapter sixty-one, and Acts amending the same, relating to the time for which justices' licenses are to be in force, and relating to the fees payable for such licenses, and relating to the transfer, removal, and transmission of such licenses, and the grant of licenses upon assignment, death, change of occupancy, or other contingency, and relating to copies of such licenses, and relating to grants or transfers of such licenses without the attendance of an applicant who is hindered by sickness, infirmity, or other reasonable cause, shall have effect with regard to certificates granted or to be granted under the principal Act and this Act.

Provision as to
existing
licenses.

p. 68.

7. The nineteenth section of the principal Act shall extend to licenses granted by way of renewal from time to time of licenses in force on the 1st day of May, 1869, whether such licenses continue to be held by the same person or have been or may be transferred to any other person or persons. . . .

As to beer
dealer's additional
retail
license.

p. 185.

10. A certificate for an additional license to the holder of a strong beer dealer's license to retail beer under the provisions of the twenty-sixth and twenty-seventh of Her Majesty, chapter thirty-three, shall not, after the passing of this Act, except by way of renewal from time to time of a certificate in force at the time of the passing of this Act, be granted unless upon the like proof of qualification according to rating as is required in the case of licenses to retail beer for consumption on the premises under the provisions of the Acts recited in the principal Act for permitting the general sale of beer and cider by retail in England.

Power to
justices to
postpone ap-
plications for
renewals.

p. 8.

11. Where any applicant for the grant or renewal of a certificate has, through inadvertence or misadventure, failed to comply with any of the preliminary requirements of the principal Act or this Act, or any Act incorporated therewith, the justices may, if they shall so think fit, and upon such terms as they think proper, postpone the consideration of the application to an adjourned meeting, and if at such adjourned meeting the justices shall be satisfied that such terms have been complied with, they may proceed to grant or withhold such certificate as if the preliminary requirements of the principal Act had been complied with.

14. Every person convicted of felony shall for ever be disqualified from selling spirits by retail, and no license to sell spirits by retail shall be granted to any person who shall have been so convicted as aforesaid; and if any person shall, after having been so convicted as aforesaid, take out or have any license to sell spirits by retail, the same shall be void to all intents and purposes; and every person who, after being so convicted as aforesaid, shall sell any spirits by retail in any manner whatever shall incur the penalty for doing so without a license.

**33 & 34
Vict. c. 29.**

Persons convicted of felony disqualified from selling spirits by retail.

BEERHOUSE ACT, 1870.

(33 & 34 VICT. c. 111.)

An Act to make provision in relation to certain Beerhouses not duly qualified according to Law.

[10th August 1870.]

WHEREAS in misapprehension of the provisions of an Act passed in the third and fourth years of the reign of her present Majesty, chapter sixty-one, licenses and certificates for the sale of beer and cider have been granted in respect of houses not duly qualified as by the first section of the said Act is required:

**33 & 34
Vict. c. 111.**

Be it enacted as follows:

1. A dwelling house, if situate within a township for which a separate poor rate is or can be made, or within a hamlet for which a separate poor rate is or can be made, shall, for the purpose of determining by reference to population, in accordance with the first *and fifteenth* sections respectively of the said Act, the rating qualification *and the closing hour* ¹ applicable to such house as a house for the sale of beer or cider, be deemed to be within such township or hamlet, as the case may be, and not within any larger area of which such township or hamlet forms a part.

Rating qualification and closing hours of beer houses within townships where separate poor rate is or can be made.

2. This Act shall apply exclusively to houses in respect of which licenses under Acts to permit the general sale of beer and cider by retail in England are in force at the time of the passing of this Act, and to such houses so long only as such licenses or any renewal thereof shall remain in force.

Restricted application of Act.

3. This Act may be cited for all purposes as "The Beerhouse Act, 1870."

Short title.

¹ Repealed 46 & 47 Vict. c. 39, Sched.

PREVENTION OF CRIMES ACT, 1871.

(34 & 35 VICT. c. 112.)

An Act for the more effectual Prevention of Crime.

[21st August 1871.]

**34 & 35
Vict. c. 112.**Penalty for
harbouring
thieves, etc.

10. Every person who occupies or keeps any lodging-house, beer-house, public house, or other house or place where intoxicating liquors are sold, or any place of public entertainment or public resort, and knowingly lodges or knowingly harbours thieves or reputed thieves, or knowingly permits or knowingly suffers them to meet or assemble therein, or knowingly allows the deposit of goods therein having reasonable cause for believing them to be stolen, shall be guilty of an offence against this Act, and be liable to a penalty not exceeding ten pounds, and in default of payment to be imprisoned for a period not exceeding four months, with or without hard labour, and the court before which he is brought may, if it think fit, in addition to or in lieu of any penalty, require him to enter into recognisances, with or without sureties, and if in Scotland to find caution, for keeping the peace or being of good behaviour during twelve months: Provided that

- (1.) No person shall be imprisoned for not finding sureties or cautioners in pursuance of this section for a longer period than three months; and
- (2.) The security required from a surety or cautioner shall not exceed twenty pounds:

And any license for the sale of any intoxicating liquors, or for keeping any place of public entertainment or public resort, which has been granted to the occupier or keeper of any such house or place as aforesaid, may, in the discretion of the court, be forfeited on his first conviction of an offence under this section, and on his second conviction for such an offence his license shall be forfeited and he shall be disqualified for a period of two years from receiving any such license; moreover, where two convictions under this section have taken place within a period of three years in respect of the same premises, whether the persons convicted were or were not the same, the court shall direct that for a term not exceeding one year from the date of the last of such convictions no such license as aforesaid shall be granted to any person whatever in respect of such premises; and any license granted in contravention of this section shall be void.

Any licensed person brought before a court in pursuance of this section shall produce his license for examination, and if such license is forfeited shall deliver it up altogether, and if such person wilfully neglects or refuses to produce his license he shall, in addition to any other penalty under this section, be liable on summary conviction to a penalty not exceeding five pounds. . . .

**34 & 35
Vict. c. 112.**

METALLIFEROUS MINES REGULATION ACT, 1872.

(35 & 36 VICT. c. 77.)

*An Act to consolidate and amend the Law relating to
Metalliferous Mines.*

[10th August 1872.]

Wages.

9. No wages shall be paid to any person employed in or about any mine to which this Act applies at or within any public house, beer shop, or place for the sale of any spirits, wine, beer, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

**35 & 36
Vict. c. 77.**

Prohibition of
payment of
wages at public
houses, etc.

Every person who contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section shall be guilty of an offence against this Act, and in the event of any such contravention or non-compliance in the case of any mine by any person whomsoever the owner and agent of such mine shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention or non-compliance.

Penalties.

31. Every person employed in or about a mine, other than an owner or agent, who is guilty of any act or omission which in the case of an owner or agent would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

Penalty for
offences against
Act.

Every person who is guilty of an offence against this Act shall be liable to a penalty not exceeding, if he is an owner or agent, twenty pounds, and if he is any other person two pounds, for each offence; and if an inspector has given written notice of any such offence, to a further

**35 & 36
Vict. c. 77.**

penalty not exceeding one pound for every day after such notice that such offence continues to be committed.

Summary
proceedings for
offences,
penalties, etc.

33. All offences and penalties under this Act, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

The "court of summary jurisdiction," when hearing and determining an information or complaint, shall be constituted—

- (a) In England, either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of some magistrate or officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace and sitting alone or with others at some court or other place appointed for the administration of justice.

LICENSING ACT, 1872.

(35 & 36 VICT. c. 94.)

An Act for regulating the Sale of Intoxicating Liquors.

[10th August 1872.]

**35 & 36
Vict. c. 94.**

Preliminary.

Short title.

1. This Act may be cited as "The Licensing Act, 1872."

Extent of Act.

2. This Act shall not extend to Scotland.

Illicit sales.

Prohibition of
sale of intoxicating
liquors
without license.

p. 98.

3. No person shall sell or expose for sale by retail any intoxicating liquor without being duly licensed to sell the same, or at any place where he is not authorised by his license to sell the same. Any person selling or exposing for sale by retail any intoxicating liquor which he is not licensed to sell by retail, or selling or exposing for sale any intoxicating liquor at any place where he is not authorised by his license to sell the same, shall be subject to the following penalties ; that is to say,

- (1.) For the first offence he shall be liable to a penalty not exceeding fifty pounds, or to imprisonment

with or without hard labour for a term not exceeding one month :

35 & 36
Vict. c. 94.

- (2.) For the second offence he shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding three months, and he may, by order of the court by which he is tried, be disqualified for any term not exceeding five years from holding any license for the sale of intoxicating liquors :
- (3.) For the third and any subsequent offence he shall be liable to a penalty not exceeding one hundred pounds, or to imprisonment with or without hard labour for any term not exceeding six months, and may by order of the court by which he is tried be disqualified for any term of years or for ever from holding any license for the sale of intoxicating liquors :

In addition to any other penalty imposed by this section any person convicted of a second or any subsequent offence under this section shall, if he be the holder of a license, forfeit such license, and in the case of a conviction for any offence under this section, the court may, if it thinks expedient so to do, declare all intoxicating liquor found in the possession of any such person as last aforesaid, and the vessels containing such liquor, to be forfeited.

Forfeiture of
license on
second
conviction.

No penalty shall be incurred under this section by the heirs, executors, administrators, or assigns of any licensed person who dies before the expiration of his license, or by the trustee of any licensed person who is adjudged a bankrupt, or whose affairs are liquidated by arrangement before the expiration of his license in respect of the sale or exposure for sale of any intoxicating liquor, so that such sale or exposure for sale be made on the premises specified in such license, and take place prior to the special session then next ensuing, or (if such special session be holden within fourteen days next after the death of the said person or the appointment of a trustee in the case of his bankruptcy, or the liquidation of his affairs by arrangement) take place prior to the special session holden next after such special session as last aforesaid.

Saving of
executors, &c.
p. 102.

4. The occupier of any unlicensed premises on which any intoxicating liquor is sold, or if such premises are occupied by more than one person, every occupier thereof, shall, if it be proved that he was privy or consenting to the sale, be subject to the penalties imposed upon persons for the sale of intoxicating liquors without license.

Occupier of
unlicensed
premises liable
for sale of
liquor.
p. 102.

**35 & 36
Vict. c. 94.**

Seller liable for
drinking on
premises con-
trary to license.

p. 104.

5. If any purchaser of any intoxicating liquor from a person who is not licensed to sell the same to be drunk on the premises drinks such liquor on the premises where the same is sold, or on any highway adjoining or near such premises, the seller of such liquor shall, if it shall appear that such drinking was with his privity or consent, be subject to the following penalties ; (that is to say,)

For the first offence he shall be liable to a penalty not exceeding ten pounds :

For the second and any subsequent offence he shall be liable to a penalty not exceeding twenty pounds.

For the purposes of this section the expression " premises where the same is sold " shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor or under his control, or used by his permission. . . .

Evasion of law
as to drinking
on premises
contrary to
license.

p. 104.

6. If any person having a license to sell intoxicating liquors not to be drunk on the premises, himself takes or carries, or employs or suffers any other person to take or carry, any intoxicating liquor out of or from the premises of such licensed person for the purpose of being sold on his account, or for his benefit or profit, and of being drunk or consumed in any other house, or in any tent, shed, or other building of any kind whatever, belonging to such licensed person, or hired, used, or occupied by him, or on or in any place, whether enclosed or not, and whether or not a public thoroughfare, such intoxicating liquor shall be deemed to have been consumed by the purchasers thereof on the premises of such licensed person, with his privity and consent, and such licensed person shall be punished accordingly in manner provided by this Act. . . .

In any proceeding under this section it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk belonged to, or were hired, used, or occupied by the seller, if proof be given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his license.

Sale of spirits
to children.

p. 107.

7. Every holder of a license who sells or allows any person to sell, to be consumed on the premises, any description of spirits to any person apparently under the age of sixteen years, shall be liable to a penalty not exceeding twenty shillings for the first offence, and not exceeding forty shillings for the second and any subsequent offence.

8. Every person shall sell all intoxicating liquor which is sold by retail and not in cask or bottle, and is not sold in a quantity less than half a pint, in measures marked according to the imperial standards.

35 & 36
Vict. c. 94.

Sale to be by
standard
measure.

Every person who acts or suffers any person under his control or in his employment to act in contravention of this section shall be liable to a penalty not exceeding, for the first offence ten pounds, and not exceeding for any subsequent offence twenty pounds, and shall also be liable to forfeit the illegal measure in which the liquor was sold.

p. 105.

9. Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, shall be liable to a penalty not exceeding ten pounds for every day during which such communication remains open.

Penalty on
internal com-
munication
between
licensed pre-
mises and
house of public
resort.

p. 106.

In addition to any penalty imposed by this section any person convicted of an offence under this section shall, if he be the holder of a license, forfeit such license.

10. If any licensed person has in his possession on the premises in respect of which his license is granted, any description of intoxicating liquor which he is not authorised to sell, unless he shall account for the possession of the same to the satisfaction of the court by which he is tried, he shall forfeit such liquor and the vessels containing the same, and shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for any subsequent offence twenty pounds.

Penalty on
illicit storing of
liquor.

p. 106.

11. Every licensed person shall cause to be painted or fixed, and shall keep painted or fixed on the premises in respect of which his license is granted, in a conspicuous place and in such form and manner as the commissioners of inland revenue may from time to time direct, his name, with the addition after the name of the word "licensed," and of words sufficient, in the opinion of the said commissioners, to express the business for which his license has been granted, and in particular of words expressing whether the license authorises the sale of intoxicating liquor to be consumed on or off the premises only, as the case may be; and no person shall have any words or letters on his premises importing that he is authorised as a licensed person to sell any intoxicating liquor which he is not in fact duly authorised to sell. Every person who acts in contravention of

Names of li-
censed persons
to be affixed to
premises.

p. 63.

**35 & 36
Vict. c. 94.**

the provisions of this section shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds.

Offences against public order.

Penalty on
persons found
drunk.

p. 112.

12. Every person found drunk in any highway or other public place, whether a building or not, or on any licensed premises, shall be liable to a penalty not exceeding ten shillings, and on a second conviction within a period of twelve months shall be liable to a penalty not exceeding twenty shillings, and on a third or subsequent conviction within such period of twelve months be liable to a penalty not exceeding forty shillings.

Every person who in any highway or other public place, whether a building or not, is guilty while drunk of riotous or disorderly behaviour, or who is drunk while in charge on any highway or other public place of any carriage, horse, cattle, or steam engine, or who is drunk when in possession of any loaded fire-arms, may be apprehended, and shall be liable to a penalty not exceeding forty shillings, or in the discretion of the court to imprisonment with or without hard labour for any term not exceeding one month.

Where the court commits any person to prison for non-payment of any penalty under this section, the court may order him to be imprisoned with hard labour.

Penalty for
permitting
drunkenness.

p. 115.

13. If any licensed person permits drunkenness or any violent, quarrelsome, or riotous conduct to take place on his premises, or sells any intoxicating liquor to any drunken person, he shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds. . . .

Penalty for
keeping dis-
orderly house.

p. 119.

14. If any licensed person knowingly permits his premises to be the habitual resort of or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, he shall, if he allow them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment, be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds. . . .

Penalty for
permitting
premises to be
a brothel.

p. 122.

15. If any licensed person is convicted of permitting his premises to be a brothel, he shall be liable to a penalty

not exceeding twenty pounds, and shall forfeit his license, and he shall be disqualified for ever from holding any license for the sale of intoxicating liquors. 35 & 36
Vict. c. 94.

16. If any licensed person—

(1.) Knowingly harbours or knowingly suffers to remain on his premises any constable during any part of the time appointed for such constable being on duty, unless for the purpose of keeping or restoring order or in execution of his duty; or Penalty for
harbouring
constable.
p. 123.

(2.) Supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty unless by authority of some superior officer of such constable; or

(3.) Bribes or attempts to bribe any constable, he shall be liable to a penalty not exceeding, for the first offence, ten pounds, and not exceeding for the second or any subsequent offence twenty pounds. . . .

17. If any licensed person—

(1.) Suffers any gaming or any unlawful game to be carried on on his premises; or Penalty for
permitting
gaming.
p. 125.

(2.) Opens, keeps, or uses, or suffers his house to be opened, kept, or used in contravention of the Act of the session of the sixteenth and seventeenth years of the reign of Her present Majesty, chapter one hundred and nineteen, intituled “An Act for the suppression of betting houses.”¹

he shall be liable to a penalty not exceeding for the first offence ten pounds, and not exceeding for the second and any subsequent offence twenty pounds. . . .

18. Any licensed person may refuse to admit to and may turn out of the premises in respect of which his license is granted any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act. Power to
exclude
drunkards from
licensed pre-
mises.
p. 117.

Any such person who upon being requested in pursuance of this section by such licensed person, or his agent or servant, or any constable, to quit such premises, refuses or fails so to do, shall be liable to a penalty not exceeding five pounds, and all constables are required on the demand of such licensed person, agent, or servant to expel or assist in expelling every such person from such premises, and may use such force as may be required for that purpose.

¹ The Betting Houses Act, 1853, the penalties of which are not repealed by this section (*Sims v. Pay*, 68 L.J.M.C. 30), see p. 127.

35 & 36
Vict. c. 94.

The court committing any person to prison for non-payment of any penalty under this section may order him to be imprisoned with hard labour.

Closing licensed premises in case of riot.

Power of
justices to
close licensed
premises in
case of riot.

p. 143.

23. Any two justices of the peace acting for any county or place where any riot or tumult happens or is expected to happen may order every licensed person in or near the place where such riot or tumult happens or is expected to happen to close his premises during any time which the justices may order ; and any person who keeps open his premises for the sale of intoxicating liquors during any time at which the justices have ordered them to be closed shall be liable to a penalty not exceeding fifty pounds ; and it shall be lawful for any person acting by order of any justices to use such force as may be necessary for the purpose of closing such premises.

Closing of premises.

Penalty on
person found on
premises during
closing hours.

p. 86.

25. If, during any period during which any premises are required under the provisions of this Act to be closed, any person is found on such premises, he shall, unless he satisfies the court that he was an inmate, servant, or a lodger on such premises, or a *bonâ fide* traveller, or that otherwise his presence on such premises was not in contravention of the provisions of this Act with respect to the closing of licensed premises, be liable to a penalty not exceeding forty shillings.

Any constable may demand the name and address of any person found on any premises during the period during which they are required by the provisions of this Act to be closed, and if he has reasonable ground to suppose that the name or address given is false, may require evidence of the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or such evidence, apprehend him without warrant, and carry him, as soon as practicable, before a justice of the peace.

Any person required by a constable under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false evidence with respect to such name and address, shall be liable to a penalty not exceeding five pounds.

Every person who by falsely representing himself to be a traveller or a lodger buys or obtains or attempts to buy or obtain at any premises any intoxicating liquor during the

period during which such premises are closed in pursuance of this Act shall be liable to a penalty not exceeding five pounds.

35 & 36
Vict. c. 94.

26. The local authority of any licensing district, upon the production of such evidence as such authority may deem sufficient to show that it is necessary or desirable so to do for the accommodation of any considerable number of persons attending any public market, or following any lawful trade or calling, . . . may grant, if such authority think fit, to any licensed victualler or licensed keeper of a refreshment house, in respect of premises in the immediate neighbourhood of such market, or of the place where the persons follow such lawful trade or calling, . . . an order exempting such person from the provisions of this Act with respect to the closing of his premises on such days and during such time, except between the hours of one and two of the clock in the morning, as may be specified in such order.

Exemption from closing by order of local authority for accommodation of persons attending a market or following a trade.

p. 89.

The holder of an order under this section shall not be liable to any penalty for not closing his premises on such days and during such time as may be specified in such order; but he shall not be exempt from any other penalty under this or any other Act, or otherwise.

A notice in such form as may be prescribed by the local authority, stating the days and hours during which the premises are permitted to be open under such order of exemption shall be affixed and kept affixed in a conspicuous position outside the premises; and if the holder of the order of exemption make default in affixing or in keeping affixed such notice in manner aforesaid, during any part of the time for which his exemption is granted, he shall be liable to pay a penalty not exceeding five pounds.

Every person who keeps affixed to his premises any such notice when he does not hold an order under this section, shall be liable to a penalty not exceeding ten pounds.

Any such local authority as aforesaid may at any time, if it seem fit to them, withdraw an order under this section, or alter the same by way of extension or restriction, as such authority may deem necessary or expedient, so however as not to render any person liable to any penalty for anything done under such order before the holder was informed of such withdrawal or alteration.

The following persons and bodies of persons shall be deemed to be local authorities of licensing districts for the purposes of this Act; (that is to say,)

**35 & 36
Vict. c. 94.**

- (1.) In the metropolitan police district, the commissioner of police for the metropolis, subject to the approbation of one of Her Majesty's Principal Secretaries of State :
- (2.) In the city of London and the liberties thereof, so far as they are not included in the metropolitan police district, the commissioner of city police, subject to the approbation of the Lord Mayor of the said city :
- (3.) In any other place, two justices of the peace in petty sessions assembled.

Intoxicating
liquors not to
be drunk
during the
hours when
the house
would be
closed if it
were an inn.

p. 88.

27. No intoxicating liquor shall be consumed upon premises licensed as a refreshment house but not for the sale of any intoxicating liquor during the hours during which the same premises would, if they were the licensed premises of licensed victuallers, be closed by law for the sale and consumption of intoxicating liquor.

If any person licensed to keep such refreshment house allows any intoxicating liquor to be consumed on the premises in contravention of this section, he shall be liable for the first offence to a penalty not exceeding ten pounds, and for any subsequent offence to a penalty not exceeding twenty pounds.

Refreshment
houses licensed
for sale of
intoxicating
liquors to be
closed at 10 p.m.

p. 89.

28. Every refreshment house in respect of which a license is granted for the sale therein by retail of foreign wine, upon which license an abatement of duty has been allowed under section nine of the Act of the session of the twenty-fourth and twenty-fifth years of the reign of her present Majesty, chapter ninety-one, intituled "An Act to amend the laws relating to the Inland Revenue," shall be closed every night at ten of the clock ; . . . and if any person keeping any such refreshment house as is mentioned in this section sells or exposes for sale in such refreshment house, or opens or keeps open any such refreshment house for the sale of intoxicating liquors during the time that such house is directed to be closed by this section, or during such time as aforesaid allows any intoxicating liquor to be consumed on such premises, he shall for the first offence be liable to a penalty not exceeding ten pounds, and for any subsequent offence to a penalty not exceeding twenty pounds. . . .

Local authority
may grant
occasional
licenses exempt-
ing from

29. If any licensed victualler or keeper of a refreshment house in which intoxicating liquors are sold applies to the local authority of a licensing district for a license

exempting him from the provisions of this Act relating to closing of premises on any special occasion or occasions, it shall be lawful for such local authority, if in his discretion he thinks fit so to do, to grant to the applicant an occasional license exempting him from the provisions of this Act relating to closing of premises during certain hours, and on the special occasion or occasions to be specified in the license; and no licensed victualler or keeper of a refreshment house to whom an occasional license has been granted under this section shall be subject to any penalty for the contravention of the provisions of this Act relating to the closing of premises during the time to which his occasional license extends, but he shall not be exempted by such occasional license from any penalty to which he may be subject by any other provision of this or any other Act of Parliament.

35 & 36
Vict. c. 94.

provisions relating to closing during certain hours.

p. 32.

Repeated convictions.

30. If any licensed person on whose license two convictions for offences committed by him against this Act have been recorded is convicted of any offence which is directed by this Act to be recorded on his license, the following consequences shall ensue; that is to say,

Forfeiture of license on a third conviction.

p. 137.

- (1.) The license of such licensed person shall be forfeited, and he shall be disqualified for a term of five years from the date of such third conviction from holding any license; and
- (2.) The premises in respect of which his license was granted shall, unless the court having cognizance of the case in its discretion thinks fit otherwise to order, be disqualified from receiving any license for a term of two years from the date of such third conviction;

Provided that nothing in this section contained shall prevent the infliction by the court of any pecuniary penalty or any term of imprisonment to which such licensed person would otherwise be liable, or shall preclude the court from exercising any power given by any other section of this Act of disqualifying such licensed person or such premises for a longer period than the term mentioned in this section.

31. The following additional provisions shall be enacted with respect only to convictions of persons who may hereafter become licensed in respect of premises, and shall not apply to a conviction of any person licensed for any premises at the passing of this Act so long as he is licensed in respect of the same premises; viz.,

Disqualification of premises on four previous convictions in five years.

p. 138.

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- (1.) The second and every subsequent conviction recorded on the license of any one such person shall also be recorded in the register of licenses against the premises :
- (2.) When four convictions (whether of the same or of different licensed persons) have within five years been so recorded against premises, those premises shall during one year be disqualified for the purposes of this Act :
- (3.) If the licenses of two such persons licensed in respect of the same premises are forfeited within any period of two years, the premises shall be disqualified for one year from the date of the last forfeiture :

Provided that where any premises are disqualified under this section notice of such disqualification shall be served upon the owner of the premises in like manner as an order of disqualification is required to be served under this Act, and the regulations for the protection of the owner of premises in case of an order of disqualification shall, so far as the same are applicable, extend to the case of disqualification under this section.

Conviction after five years not to increase penalty.

p. 139.

32. A conviction for any offence under this Act shall not after five years from the date of such conviction be receivable in evidence against any person for the purpose of subjecting him to an increased penalty or to any forfeiture.

Omission to record conviction on license.

p. 133.

33. Where a conviction for an offence is by this Act directed to be recorded on the license of any person, the fact of no such record having been made shall not, if such conviction be otherwise proved to the satisfaction of the court having cognisance of any case under this Act, exempt such person or the premises occupied by him from any penalty to which such person or premises would have been subject if such record had been duly made. And on such proof being given the omitted conviction may be recorded accordingly, and shall be deemed to have been duly recorded in accordance with this Act.

Penalty for defacing record of conviction on license.

p. 133.

34. If any person defaces or obliterates, or attempts to deface or obliterate, any record of a conviction on his license, he shall be liable to a penalty not exceeding five pounds.

Registers.

Register of licenses to be kept in licensing district.

p. 62.

36. There shall be kept in every licensing district by the clerk of the licensing justices of that district a register, to be called the register of licenses, in such form as may be

prescribed by such justices, containing the particulars of all licenses granted in the district, the premises in respect of which they were granted, the names of the owners of such premises, and the names of the holders for the time being of such licenses. There shall also be entered on the register all forfeitures of licenses, disqualifications of premises, records of convictions, and other matters relating to the licenses on the register.

35 & 36
Vict. c. 94.

Every person applying for a new license, or the renewal of a license, shall state the name of the owner of the premises in respect of which such license is granted or renewed, and such name shall be indorsed on the license, and the person whose name is so stated shall, subject as hereinafter mentioned, be deemed for the purposes of this Act to be the owner of the premises.

A court of summary jurisdiction may, on the application of any person who proves to the court that he is entitled to be entered as owner of any premises in place of the person appearing on the register to be the owner, make an order substituting the name of the applicant, and such order shall be obeyed by the clerk of the licensing justices, and a corresponding correction may be directed to be made on the license granted in respect of the premises of which such applicant claims to be the owner.

Any ratepayer, any owner of premises to which a license is attached, and any holder of a license within a licensing district, shall, upon payment of a fee of one shilling, and any officer of police, and any officer of inland revenue in such district, without payment, shall be entitled at any reasonable time to inspect and take copies of or extracts from any register kept in pursuance of this section for such district; and the clerk of the licensing justices and every other person who prevents the inspection or taking copies of or extracts from the same, or demands any unauthorised fee therefor, shall be liable to a penalty not exceeding five pounds for each offence.

Inspection of
register.

The licensing justices may, if they think fit, cause the register kept in pursuance of this section to be divided into parts and assign a part to any portion of the licensing district; and there shall be paid by each licensed person to the clerk in respect of such registration the sum or fee of one shilling for every license granted or renewed.

Division of
register.

Amendment of Law as to Grant of Licenses.

37. In counties a grant of a new license shall not be valid unless it is confirmed by a standing committee of the

Licensing com-
mittee of
justices in
counties.

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Vict. c. 94.

county justices, in this Act called the county licensing committee.

The justices in quarter sessions assembled for every county shall annually appoint from among themselves for the purposes of this Act a county licensing committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient.

A county licensing committee shall consist of not less than three nor more than twelve members.

Quorum.

The quorum of a county licensing committee shall be three members.

Any vacancies arising in any such committee from death, resignation, or other causes, may be from time to time filled up by the justices in quarter sessions by whom the committee is appointed.

A county licensing committee shall be deemed to be a standing committee of the quarter sessions by whom they are appointed for the year succeeding their appointment, and their jurisdiction and proceedings shall not be affected by the termination of the sessions at which they were appointed. The members of a committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the committee until their successors are appointed.

The justices in quarter sessions shall make such regulations with respect to the meetings of any such committee and the transaction of business thereat as they may think fit.

Clerk.

The clerk of the peace of the county shall by himself or his deputy be the clerk of the county licensing committee or committees, and shall perform all such duties in relation to any such committee or committees as he is required by law to perform in relation to the justices in quarter sessions assembled. . . .

Licensing committee of justices in boroughs.

p. 25.

38. In boroughs in which at the commencement of the time appointed for the annual appointment of a licensing committee in this section mentioned there are ten justices acting in and for such borough or upwards, new licenses shall be granted by a committee, who shall for the purpose of such new licenses perform all the duties and be subject to the obligations of licensing justices.

In every such borough as aforesaid the justices acting in and for such borough shall annually in the fortnight preceding the commencement of the period during which the

general annual licensing meeting for such borough may be held appoint from among themselves for the purposes of this Act a committee of not less than three nor more than seven in number, but no justice shall be appointed a member of such committee unless he is qualified to act under this Act.

35 & 36
Vict. c. 94.

Any vacancies arising in such committee (in this Act referred to as the borough licensing committee) from death, resignation, or other causes, may be from time to time filled up by the justices by whom the committee is appointed.

The quorum of a borough licensing committee shall be Quorum.
three members.

The members of the borough licensing committee retiring at the end of the year may be re-appointed; and if from any cause members have not been appointed in any year to succeed the retiring members, such retiring members may continue to act as the borough licensing committee until their successors are appointed.

The grant of a new license by a borough licensing committee shall not be valid unless it is confirmed by the whole body of borough justices, who would, if this Act had not passed, have been authorised to grant licenses, or by a majority of such body present at any meeting assembled for the purpose of confirming such licenses.

In boroughs in which there are not ten justices acting in and for such borough at such time as aforesaid, new licenses shall be granted by the qualified borough justices, but the grant of a new license by such justices shall not be valid unless it is confirmed by a joint committee appointed in respect of such borough in manner hereinafter mentioned:

Joint licensing
committee in
boroughs where
not ten
justices.

A joint committee for any such borough as last aforesaid shall consist of three justices of the county in which such borough is situate and three justices of the borough; but no justice shall be appointed a member of such committee unless he is qualified to act under this Act. The three county justices on a joint committee shall be appointed by the county licensing committee. The same county justices may be appointed members of more than one joint committee under this section. The borough justices on a joint committee shall be appointed by the justices of the borough for which they act, or by the majority of such justices assembled at any meeting held for that purpose. Any casual vacancy arising in the joint committee from death, resignation, or other cause,

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may from time to time be filled up by the justices by whom the person creating such vacancy was appointed. The quorum of the joint committee shall be five members. The senior magistrate on the joint committee present at any meeting shall be its chairman; and in the event of an equal division of the committee the chairman shall have a second vote. . . .

No objection shall be made to any licenses granted or confirmed in pursuance of this section on the ground that the justices or committee of justices who granted or confirmed the same were not qualified to make such grant or confirmation.

From and after the passing of this Act, the justices of a county shall not for licensing purposes, save in so far as respects the power of appointing members of a joint committee, have any jurisdiction in a borough in which the borough justices have for such purposes concurrent jurisdiction.

Stipendiary magistrates may act as licensing justices.

p. 24.

39. Beyond the limits of the jurisdiction of the metropolitan police courts a metropolitan police or stipendiary magistrate may act as one of the justices empowered to grant or confirm licenses so far as regards any licensing district wholly or partly within his jurisdiction.

Publication of notice of application for new license.

p. 27.

40. Every person intending to apply for a new license, or to apply for the transfer of a license, shall publish notice of such application as follows; that is to say,

(1.) In the case of a new license, he shall cause notice thereof to be given and to be affixed and maintained in manner directed by section seven of "The Wine and Beerhouse Act, 1869," and any enactment amending the same, and shall advertise such notice in some paper circulating in the place in which the premises to which the notice relates are situate, on some day not more than four and not less than two weeks before the proposed application, and on such day or days, if any, as may be from time to time fixed by the licensing justices:

For transfer.

p. 30.

(2.) In the case of the transfer of a license he shall, fourteen days prior to one of the special sessions appointed by the justices for granting transfers of such licenses, serve a notice of his intention to transfer the same upon one of the overseers of the parish, township, or place in which the premises in respect of which his application is to be made

are situate, and on the superintendent of police of the district. This notice shall be signed by the applicant or by his authorised agent, and shall set forth the name of the person to whom it is intended that such license shall be transferred, together with the place of his residence, and his trade or calling during the six months preceding the time of serving such notice :

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- (3.) Any license may be authenticated in manner in which a certificate may be authenticated in pursuance of sub-section two of section four of "The Wine and Beerhouse Act Amendment Act, 1870," and the provisions of the said sub-section shall apply accordingly. . . .

Authentification of license.
p. 17.

The provisions of this section as to notices shall extend to all cases where, under the Intoxicating Liquors Act, 1828, notices are required to be served in a like form to or in the same manner as notices for new licenses.

41. Whereas by the second section of the Act of the session of the fifth and sixth years of the reign of her present Majesty, chapter forty-four, the magistrates or justices in petty sessions are empowered, in the event of a license being lost or mislaid, to receive a copy of such license, and to deal therewith in manner in the said section mentioned; and whereas it is expedient to extend the power of such magistrates or justices to the reception of a copy of a license in the event of a license being wilfully withheld by the holder thereof: Be it enacted, that such section be construed as if after the words "lost or mislaid," there were inserted the words "or if the application is for the grant of a license,* has been wilfully withheld by the holder thereof."

Amendment of
5 & 6 Vict. c. 44,
with respect to
licenses wilfully
withheld.
p. 47.

42. Where a licensed person applies for the renewal of his license the following provisions shall have effect :

Provisions as to
renewal of
licenses.

- (1.) He need not attend in person at the general annual licensing meeting, unless he is required by the licensing justices so to attend :
- (2.) The justices shall not entertain any objection to the renewal of such license, or take any evidence with respect to the renewal thereof, unless written notice of an intention to oppose the renewal of such license has been served on such holder not less than seven days before the commencement of the general annual

p. 41.

Attendance of
applicant.

Notice of
opposition.

* "Or for the transfer of a license," 47 & 48 Vict. c. 29, s. 1.

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licensing meeting: Provided that the licensing justices may, notwithstanding that no notice has been given, on an objection being made, adjourn the granting of any license to a future day, and require the attendance of the holder of the license on such day, when the case will be heard and the objection considered, as if the notice hereinbefore prescribed had been given:

Evidence on
oath.

- (3.) The justices shall not receive any evidence with respect to the renewal of such license which is not given on oath.

Discretion.

Subject as aforesaid, licenses shall be renewed and the powers and discretion of justices relative to such renewal shall be exercised as heretofore.

Appearance to
oppose con-
firmation of
licenses.

p. 26.

43. Any person who appears before the licensing justices and opposes the grant of a new license, and no other person, may appear and oppose the confirmation of such grant by the confirming authority in counties or boroughs; and the confirming authority may award such costs as they shall deem just to the party who shall succeed in the proceedings before them. In a county the justices in quarter sessions assembled, and in a borough the borough justices, shall make rules as to the proceedings to be adopted for confirmation of new licenses and the costs to be incurred in any such proceedings, and the person by whom such costs are to be paid.

Disqualifica-
tions for
licenses.

44. No license shall be granted under the Intoxicating Liquor Licensing Acts to any person or in respect of any premises declared by or in pursuance of any of the Intoxicating Liquor Licensing Acts or this Act to be disqualified persons or disqualified premises during the continuance of such disqualification. Any license held by any person so disqualified, or attached to premises so disqualified, shall be void.

Qualification of
premises for
licenses.

p. 54.

45. Premises to which at the time of the passing of this Act no license under the Acts recited in the Wine and Beer-house Act, 1869, authorising the sale of beer or wine for consumption thereupon is attached, shall not be subject to any of the provisions now in force prescribing a certain rent or value or rating as a qualification for receiving any such license.

Premises not at the time of the passing of this Act licensed for the sale of any intoxicating liquor for consumption thereupon shall not be qualified to receive a

license authorising such sale unless the following conditions are satisfied :

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Vict. c 94.

- (a) The premises, unless such premises are a railway refreshment room, shall be of not less than the following annual value :

If situated within the city of London or the liberties thereof, or any parish or place subject to the jurisdiction of the Metropolitan Board of Works, or within the four mile radius from Charing Cross, or within the limits of a town containing a population of not less than one hundred thousand inhabitants, fifty pounds per annum ; or if the license do not authorise the sale of spirits, thirty pounds per annum :

If situated elsewhere and within the limits of a town containing a population of not less than ten thousand inhabitants, thirty pounds per annum ; or if the license do not authorise the sale of spirits, twenty pounds per annum :

If situated elsewhere and not within any such town as above mentioned, fifteen pounds per annum ; or if the license do not authorise the sale of spirits, twelve pounds per annum :

- (b) The premises shall be, in the opinion of the licensing authority, structurally adapted to the class of license for which a certificate is sought : Provided that no house, not licensed at the time of the passing of this Act for the sale of any intoxicating liquor for consumption on the premises, shall be qualified to have a license attached thereto authorising such sale, unless such house shall contain, exclusive of the rooms occupied by the inmates of such house, if the license authorise the sale of spirits, two rooms, and if the license do not authorise the sale of spirits, one room, for the accommodation of the public.

Structural
adaptation of
premises.

Rooms.

46. Whereas in certain cases a license under the Wine and Beerhouse Acts, 1869 and 1870, is not to be granted unless the house and premises in respect of which such license is granted are of such rent and value or are rated to the poor rate on a rent or annual value of such amount as is respectively in that behalf stated in the Acts recited in the Wine and Beerhouse Act, 1869 ; and it is expedient to substitute in such cases "annual value" for the said rent, value, or rating, and to provide for the ascertaining the annual value of such house and premises ; Be it therefore

Annual value
necessary for
obtaining grant
of license.

p. 56.

35 & 36 enacted that in cases not provided for by the last preceding
Vict. c. 94. section—

A license under the Wine and Beerhouse Acts, 1869 and 1870, shall not be granted in respect of any premises which are not, in the opinion of the licensing justices who grant such license, of such annual value as is mentioned in that behalf in the Acts recited by the Wine and Beerhouse Act, 1869; and those Acts shall be construed as if “annual value” were therein substituted for “rent,” “value,” “rated on a rent or annual value,” and other like expressions.

If at the first general annual licensing meeting after the passing of this Act the licensing justices are of opinion that any premises which are licensed for the sale of intoxicating liquors at the passing of this Act are not of such annual value as authorises the grant of a license for such premises, they may, notwithstanding, renew such license upon the condition, to be expressed in the license, that the holder thereof, before the next general annual licensing meeting, improves the premises so as to make them of sufficient annual value, and if the holder fail to comply with such condition the license shall not be renewed at such next general annual licensing meeting.

Mode of as-
 certaining
 annual value.

p. 57.

47. The licensing justices shall take such means as may seem to them best for ascertaining the annual value of any premises for the purposes of this Act, and may, if they think fit, order a valuation to be made of such premises by a competent person appointed by them for the purpose, and may order the costs of such valuation to be paid by the applicant for a license.

The annual value of premises for the purposes of this Act shall be the annual rent which a tenant might be reasonably expected, taking one year with another, to pay for the same, if he undertook to pay all tenant's rates and taxes, and tithe commutation rent-charge (if any), and if the landlord undertook to bear the cost of the repairs and insurance and other expenses (if any) necessary to maintain the premises in a state to command the said rent, and if no license were granted in respect thereof; but no land shall be included in such premises other than any pleasure grounds or flower or kitchen garden, yard, or curtilage usually held and occupied and used by the persons residing in and frequenting the house.

48. The following regulations shall be made with respect to licenses :

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- (1.) Every license granted after the commencement of this Act shall be in such form as may from time to time be prescribed by a secretary of state :
- (2.) A renewal of a license may be made by an endorsement on the license, or by the issue of a copy of the old license, but in the latter case there shall be endorsed on such copy all convictions made within the previous five years which are indorsed on the old license.

Regulations as to form of licenses.

p. 58.

The Commissioners of Inland Revenue may alter the form of any license granted by them for the sale of intoxicating liquors, in such manner as they may think expedient, for the purposes of bringing such form into conformity with the law for the time being in force.

49. Where on the occasion of an application for a new license or transfer or renewal of a license which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant, at the time of his application, applies to the licensing justices to insert in his license a condition that he shall keep the premises in respect of which such license is or is to be granted closed during the whole of Sunday, the justices shall insert the said condition in such license.

Provisions as to six-day licenses.

p. 35.

The holder of a license in which such condition is inserted (in this Act referred to as a six-day license) shall keep his premises closed during the whole of Sunday, and the provisions of this Act with respect to the closing of licensed premises during certain hours on Sunday shall apply to the premises in respect of which a six-day license is granted as if the whole of Sunday were mentioned in those provisions instead of certain hours only.

The holder of a six-day license may obtain from the Commissioners of Inland Revenue any license granted by such commissioners, which he is entitled to obtain in pursuance of such six-day license, upon payment of six seventh parts of the duty which would otherwise be payable by him for a similar license not limited to six days ; and if he sell any intoxicating liquor on Sunday he shall be deemed to be selling intoxicating liquor without a license.

The notice which a licensed person is required to keep painted or fixed on his premises shall, in the case of a license under this section, contain words indicating that such

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license is for six days only. In calculating the amount to be paid for a six-day license any fraction of a penny shall be disregarded.

Removal of
licenses from
one part of a
district to
another, &c.

p. 38.

50. Licenses may be removed from one part of a licensing district to another part of the same district, or from one licensing district to another licensing district within the same county, in manner following :

The application for an order sanctioning removal shall be made by the person desiring to be the holder of the license when removed, and shall be made at a general annual licensing meeting, or any adjournment thereof, to the justices authorised to grant new licenses in the licensing district in which the premises are situated to which the license is to be removed.

Notice of the intended application shall be given in the same manner as notice is given of an application for the grant of a new license.

A copy of the notice shall be personally served upon or sent by registered letter to the owner of the premises from which the license is to be removed, and the holder of the license, unless he is also the applicant.

The justices to whom the application is made shall not make an order sanctioning such removal unless they are satisfied that no objection to such removal is made by the owner of the premises to which the license is attached, or by the holder of the license, or by any other person whom such justices shall determine to have a right to object to the removal.

Subject as aforesaid, such justices shall have the same power to make an order sanctioning such removal as they have to grant new licenses ; but no such order shall be valid unless confirmed by the confirming authority of the licensing district.

Legal Proceedings.

Summary
proceedings for
offences under
this Act, &c.

p. 148.

51. Except as in this Act otherwise expressly provided, every offence under this Act may be prosecuted, and every penalty and forfeiture may be recovered and enforced, in manner provided by the Summary Jurisdiction Act, 1848, subject to the following provisions :

(1.) The court of summary jurisdiction, when hearing and determining an information or complaint other than in a case where the offence charged

is that of being found drunk in any highway or other public place, or any licensed premises, shall be constituted either of two or more justices of the peace in petty sessions sitting at a place appointed for holding petty sessions, or of a stipendiary magistrate, or some other officer for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace, and sitting alone or with others at some court or other place appointed for the administration of justice: . . .

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- (4.) In all cases of summary proceedings under this Act, the defendant and his wife shall be competent to give evidence : Evidence of defendant.
- (5.) All forfeitures shall be sold or otherwise disposed of in such manner as the court may direct, and the proceeds of such sale or disposal (if any) shall be applied in the like manner as penalties, but the court may direct that such proceeds may be applied in the first instance in paying the expenses of and incidental to any search and seizure which resulted in such forfeiture :
- (6.) Penalties and forfeitures under this Act shall not, for the purpose of any Act respecting the application of such penalties, or the costs, charges, and expenses attending proceedings for recovery of such penalties or of forfeitures, be deemed to be penalties or forfeitures under any Act relating to the Inland Revenue.

Any officer appointed by the Commissioners of Inland Revenue may sue for any penalties under this Act, and when so sued for any penalties which may be recovered shall be applied in the manner in which excise penalties are for the time being applicable by law.

Where under this Act any sum for costs (other than costs upon a conviction or order of dismissal of an information) or for compensation, or both, is ordered or awarded to be paid by any person, the amount thereof shall be recovered in manner directed by "The Summary Jurisdiction Act, 1848," for the recovery of costs awarded upon the dismissal of an information or complaint.

52. If any person feels aggrieved by any order or conviction made by a court of summary jurisdiction, the person so aggrieved may appeal therefrom, subject to the conditions and regulations following :

Appeal to
quarter sessions
against order of
conviction.

p. 150.

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Vict. c. 94.**

Continuance of
license during
pendency of
appeal against
justices' refusal
to renew.

p. 142.

- (1.) The appeal shall be made to the next court of quarter sessions. . . .

53. Where the justices refuse to renew a license, and an appeal against such refusal is duly made, and such license expires before the appeal is determined, the Commissioners of Inland Revenue may, by order, permit the person whose license is refused to carry on his business during the pendency of the appeal upon such conditions as they think just; and, subject to such conditions, any person so permitted may, during the continuance of such order, carry on his business in the same manner as if the renewal of the license had not been refused.

Where a license is forfeited on or in pursuance of a conviction for an offence, and an appeal is duly made against such conviction, the court by whom the conviction was made, may, by order, grant a temporary license to be in force during the pendency of the appeal upon such conditions as they think just.

Conviction, &c.,
not to be
quashed for
want of form,
or removed
by certiorari.

p. 149.

54. No conviction or order made in pursuance of this Act, originally or on appeal, relative to any offence, penalty, forfeiture, or summary order, shall be quashed for want of form, or, if made by a court of summary jurisdiction, be removed by certiorari or otherwise, either at the instance of the Crown or of any private party, into any superior court. . . .

As to record of
convictions
of licensed
persons for
offences under
Act.

p. 132.

55. With respect to the record of convictions of licensed persons for offences under this Act committed by them as such, the following provisions shall have effect in cases where this Act requires the conviction to be recorded on the license; that is to say,

- (1.) The court before whom any licensed person is accused shall require such person to produce and deliver to the clerk of the court the license under which such person carries on business, and the summons shall state that such production will be required:
- (2.) If such person is convicted, the court shall cause the short particulars of such conviction, and the penalty imposed, to be endorsed on his license before it is returned to the offender:
- (3.) The clerk to the licensing justices shall enter the particulars respecting such conviction, or such of them as the case may require, in the register of licenses, kept by him under this Act:

- (4.) If the clerk to the court be not the clerk to the licensing justices, he shall send forthwith to the last-mentioned clerk notice of such conviction, and of the particulars thereof :
- (5.) Where the conviction of any such person has the effect of forfeiting the license, or of disqualifying any person or premises for the purposes of this Act, the license shall be retained by the clerk of the court, and notice of such forfeiture and disqualification shall be sent to the licensing officer of the district, and if the clerk to the court is not the clerk to the licensing justices to such last-mentioned clerk, together with the forfeited license.

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Vict. c. 94.

56. Where any tenant of any licensed premises is convicted of an offence against this Act, and such offence is one the repetition of which may render the premises liable to be disqualified from receiving a license for any period, it shall be the duty of the clerk of the licensing justices to serve, in manner provided by this Act, notice of every such conviction on the owner of the premises.

Notice to owners of licensed premises of convictions of tenants.

p. 140.

Where any order of a court of summary jurisdiction declaring any licensed premises to be disqualified from receiving a license for any period has been made, the court shall cause such order to be served on the owner of such premises, where the owner is not the occupier, with the addition of a statement that the court will hold a petty sessions at a time and place therein specified, at which the owner may appear and appeal against such order on all or any of the following grounds, but on no other grounds :

- (a) That notice, as required by this Act, has not been served on the owner of a prior offence which on repetition renders the premises liable to be disqualified from receiving a license at any period ; or
- (b) That the tenant by whom the offence was committed held under a contract made prior to the commencement of this Act, and that the owner could not legally have evicted the tenant in the interval between the commission of the offence, in respect of which the disqualifying order was made, and the receipt by him of the notice of the immediately preceding offence which on repetition renders the premises liable to be disqualified from receiving a license at any period ; or

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- (c) That the offence in respect of which the disqualifying order was made occurred so soon after the receipt of such last-mentioned notice that the owner, notwithstanding he had legal power to evict the tenant, could not with reasonable diligence have exercised that power in the interval which occurred between the said notice and the second offence.

If the owner appear at the time and place specified, and at such sessions, or any adjournment thereof, satisfy the court that he is entitled to have the order cancelled on any of the grounds aforesaid, the court shall thereupon direct such order to be cancelled, and the same shall be void. . . .

As to conviction of licensed persons of more than one offence on same day.

p. 154.

57. Where a licensed person is convicted of more offences than one committed on the same day, the convictions for which are by this Act directed to be recorded on his license, the court by whom he is convicted may, in their discretion, order that one or some only of such convictions shall be so recorded.

Evidence of endorsements and register.

p. 62.

58. The registers of licenses kept in pursuance of this Act shall be receivable in evidence of the matters required by this Act to be entered therein. Every endorsement upon a license, and every copy of an entry made in the registers of licenses in pursuance of this Act, purporting to be signed by the clerk to the licensing justices and (in the case of a copy) to be certified to be a true copy, shall be evidence of the matters stated in such endorsement and entry, without proof of the signature or authority of the person signing the same.

Saving for indictments, &c., under other Acts.

p. 153.

59. Nothing in this Act shall prevent any person from being liable to be indicted or punished under any other Act, or otherwise, so that he be not punished twice for the same offence.

Miscellaneous.

Disqualification of justices to act under any of the Intoxicating Liquor Acts.

p. 20.

60. No justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Licensing Acts, except in cases where the offence charged is that of being found drunk in any highway or other public place, whether a building or not, or on any licensed premises, or of being guilty while drunk of riotous or disorderly conduct, or of being drunk while in charge, on any highway or other

public place, of any carriage, horse, cattle, or steam engine, or of being drunk when in possession of loaded fire-arms, who is or is in partnership with or holds any share in any company which is a common brewer, distiller, maker of malt for sale, or retailer of malt or of any intoxicating liquor in the licensing district or in the district or districts adjoining to that in which such justice usually acts; and no justice shall act for any purpose under this Act, or under any of the Intoxicating Liquor Acts, in respect of any premises in the profits to which such justice is interested, or of which he is wholly or partly the owner, lessee, or occupier, or for the owner, lessee, or occupier of which he is manager or agent.

35 & 36
Vict. c. 94.

Any justice hereby declared not to be qualified to act under this Act who knowingly acts as a justice for any of the purposes of this Act shall for every such offence be liable to a penalty not exceeding one hundred pounds, to be recovered by action in one of Her Majesty's superior courts at Westminster :

Provided that---

- (1.) No justice shall be disqualified under this section to act in respect of any premises by reason of his having vested in him a legal interest only, and not a beneficial interest, in such premises or the profits thereof :
- (2.) No justice shall be liable to a penalty for more than one offence committed by him under this section before the institution of any proceedings for the recovery of such penalty :
- (3.) No act done by any justice disqualified by this section shall by reason only of such disqualification be invalid.

61. For all the purposes of this Act any pier, quay, jetty, mole, or work extending from any place within the jurisdiction of any licensing justices or court of summary jurisdiction into or over any part of the sea, or any part of a river within the ebb and flow of the tide, shall be deemed to be within the jurisdiction of such justices and court.

Extension of
jurisdiction of
justices over
river or water,
&c.

p. 18.

For the purpose of jurisdiction in any proceeding under this Act, any river or water which runs between or forms the boundary of two or more licensing districts, or of the jurisdiction of two or more courts of summary jurisdiction, shall be deemed to be wholly within each such licensing district and the jurisdiction of each of such courts.

**35 & 36
Vict. c. 94.**

Evidence of
sale or con-
sumption of
intoxicating
liquor.

p. 118.

62. In proving the sale or consumption of intoxicating liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed or any intoxicating liquor was actually consumed, if the court hearing the case be satisfied that a transaction in the nature of a sale actually took place, or that any consumption of intoxicating liquor was about to take place; and proof of consumption or intended consumption of intoxicating liquor on premises to which a license under this Act is attached, by some person other than the occupier of or a servant in such premises, shall be evidence that such liquor was sold to the person consuming, or being about to consume, or carrying away the same by or on behalf of the holder of such license.

Avoidance of
excise license
on forfeiture of
license.

p. 184.

63. Where a license is forfeited in pursuance of this Act, or becomes void under any of the provisions of this Act, any license for the sale of intoxicating liquors granted by the Commissioners of Inland Revenue to the holder of such license shall be void.

Production of
license by
holder, and
penalty on
non-production.

p. 60.

64. Every holder of a license, or of an order of exemption made by a local authority in pursuance of this Act, shall, by himself, his agent, or servant, produce such license or order within a reasonable time after the production thereof is demanded by a justice of the peace, constable, or officer of inland revenue, and deliver the same to be read and examined by him. Any person who acts in contravention of this section shall be liable to a penalty not exceeding ten pounds.

Population to
be according to
last census.

65. The population of any area for the purposes of this Act shall be ascertained according to the last published census for the time being.

Moiety of
penalties may
be awarded to
police super-
annuation fund.

p. 149.

66. Any part not exceeding a moiety of any penalty recovered under this Act may, if the court shall so direct, be paid to the superannuation fund of the police establishment within whose jurisdiction the offence in respect of which such penalties are imposed shall have occurred.

Regulations
as to retail
licenses of
wholesale
dealers.

p. 5.

68. No person shall sell by retail liqueurs or spirits under the authority of any retail license which such person shall have obtained as a wholesale spirit dealer from the Commissioners of Inland Revenue, except in premises occupied and used exclusively for the sale therein of intoxicating liquor, and which premises have no communication with the premises of nor are in any way occupied by a

person who is carrying on any other trade or business, unless such person shall have first obtained from the licensing justices a license authorising such sale in premises not exclusively so occupied and used. 35 & 36
Vict. c. 94.

69. A license for the sale of liqueurs or spirits by retail not to be consumed on the premises may, where such license is required by this Act, be granted in the same manner in all respects in which a license for selling wine not to be consumed on the premises may by law be granted, and an application for such a license shall not be refused except upon one or more of the grounds on which a certificate in respect of a license to sell by retail beer, cider, or wine not to be consumed on the premises may be refused. . . .

Licenses for sale of liqueurs, &c., by retail not to be consumed on the premises.

p. 65.

70. All notices and documents required by this Act to be served or sent may, unless otherwise expressly provided, be served and sent by post, and, until the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice or document was prepaid, and properly addressed.

Notices may be served by post.

p. 140.

Where any officer or other person interested in any licensed premises is entitled to receive notice of a conviction under this Act, he shall supply his address to the clerk or other person required to send such notice, and any notice sent to such address shall be deemed to be duly served; and where no notice is supplied in pursuance of this section, all notices shall be deemed to be duly served if sent to any address which such clerk or other person in the exercise of his discretion believes to be the address of the person to whom the notice was so sent.

Provided that any notice of any offence required by this Act to be sent to the owner of licensed premises shall be either served personally or sent by registered letter.

71. The schedules to this Act shall be construed and have effect as part of this Act.

Schedules to be part of Act.

Saving clauses.

72. Nothing in this Act shall affect or apply to—

1. The privileges at the date of the passing of this Act enjoyed by any university in England, or the respective chancellors or scholars of the same, or their successors;

Saving of certain privileges, rights, &c.

p. 157.

35 & 36
Vict. c. 94.

2. The privileges at the date of the passing of this Act enjoyed by the mayor or burgesses of the borough of St. Albans, in the county of Hertford, or their successors, or the exemption from the obligation to take out a license as defined by this Act, or a license from the commissioners of inland revenue enjoyed by the Company of the master, wardens, and commonalty of Vintners of the City of London :
3. The sale of spruce or black beer :
4. The sale of intoxicating liquor by proprietors of theatres in pursuance of the Acts in that behalf :
5. The sale of intoxicating liquor in packet boats, in pursuance of the Acts in that behalf :
6. The sale of intoxicating liquor on special occasions in pursuance of the provisions in that behalf enacted :
7. The sale of spirits in canteens, in pursuance of any Act regulating the same :
8. The sale of medicated or methylated spirits, or spirits made up in medicine and sold by medical practitioners or chemists and druggists :
9. The sale of intoxicating liquor by wholesale :
10. Any penalties recoverable by or on behalf of the commissioners of inland revenue, or any laws relating to the excise.

Justices' license
not required
for retail of
wine or spirits
by dealer.

p. 158.

73. A license as defined by this Act shall not be required for—

1. The sale of wine by retail, not to be consumed on the premises, by a wine merchant in pursuance of a wine dealer's license granted by the commissioners of inland revenue ; or
2. The sale of liqueurs or spirits by retail, not to be consumed on the premises, by a wholesale spirit dealer whose premises are exclusively used for the sale of intoxicating liquors, in pursuance of a retail license granted by the commissioners of inland revenue, under the provisions of the twenty-fourth and twenty-fifth of Her present Majesty, chapter twenty-one, intituled "An Act for granting to Her Majesty certain duties of excise and stamps."

Definitions.

Interpretation
of terms, &c.

74. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them ; that is to say,

- “Intoxicating Liquor Licensing Act, 1828,” means the Act of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled “An Act to regulate granting of licenses to keepers of inns, alehouses, and victualling houses in England,” and includes the Acts amending the same : 35 & 36
Vict. c. 94.
- “Wine and Beerhouse Acts” means the Wine and Beerhouse Act, 1869, and the Wine and Beerhouse Act Amendment Act, 1870 :
- “Intoxicating Liquors Licensing Acts” means the Intoxicating Liquor Licensing Act, 1828, and the Wine and Beerhouse Acts :
- “Intoxicating liquor” means spirits, wine, beer, porter, cider, perry, and sweets, and any fermented, distilled, or spirituous liquor which cannot, according to any law for the time being in force, be legally sold without a license from the commissioners of inland revenue : p. 51.
- “License” means a license for the sale of intoxicating liquors granted by justices in pursuance of the Intoxicating Liquor Licensing Act, 1828, including a certificate of justices granted under the Wine and Beerhouse Acts, and including a license for the sale of sweets which is hereby authorised to be granted in the same manner as if sweets were wine, and including a license for the retail of spirits, granted to a wholesale spirit dealer by the justices in pursuance of this Act :
- “The renewal of a license” means a license granted at a general annual licensing meeting by way of renewal :
- “The transfer of a license” means a transfer made in special sessions in exercise of the power granted to justices by the fourth section of the said Act of the ninth year of the reign of King George the Fourth, chapter sixty-one, intituled “An Act to regulate granting of licenses to keepers of inns, alehouses, and victualling houses in England” : p. 12.
- “Licensed person” means a person holding a license as defined by this Act :
- “Licensed premises” means premises in respect of which a license as defined by this Act has been granted and is in force :
- “Unlicensed premises” means premises in respect of which a license as defined by this Act has not been granted or is not in force :

35 & 36
Vict. c. 94.

p. 140.

“Owner of licensed premises” means the person for the time being entitled to receive, either on his own account or as a mortgagee or other incumbrancer in possession, the rack-rent of such premises :

“Licensing district” means the area for which a general annual licensing meeting is held in pursuance of the Intoxicating Liquor Licensing Act, 1828 :

“Licensing justices” means the justices having jurisdiction in respect of the grant of new licenses in a licensing district under the last-mentioned Act as amended by this Act ;

“Licensing officer” means any officer appointed by the commissioners of inland revenue to issue or superintend the issue of licenses under this Act in any place :

p. 52.

“Sale by retail” in respect of any intoxicating liquor means the sale of that liquor in such quantities as is declared to be sale by retail by any Acts relating to the sale of intoxicating liquors :

“County” does not include a county of a city or a county of a town, but means any county, riding, parts, division or liberty of a county having a separate commission of the peace and a separate court of quarter sessions :

“Borough” means a county of a city, county of a town, city, municipal borough, cinque port and its liberties, town corporate or other place in which a general annual licensing meeting is held in pursuance of the Intoxicating Liquors (Licensing) Act, 1828, exclusive of a petty sessional division of a county :

Where a liberty of a county, as defined by this Act, is not divided into petty sessional divisions, such liberty shall, so far as respects the provisions of this Act with respect to the grant of new licenses, stand in the same position as if it were a petty sessional division of the county in which it is geographically situate or with which it has the longest common boundary :

“Clerk of the licensing justices” means, where the licensing district is a county or a petty sessional division of a county, the clerk of the petty sessions for such division ; and where the licensing district is a county of a city, county of a town, city, municipal borough, town corporate, or other place not a county or a petty sessional division of a county, means the

clerk to the justices of such county of a city, county of a town, city, borough, town corporate, or place, or other person performing analogous duties to such clerk; and where there are more persons than one in any county, petty sessional division, or other place filling the office of clerk of the licensing justices as hereinbefore defined, the licensing justices shall determine by which of such persons the register of licenses shall be kept:

35 & 36
Vict. c. 94.

“Town” ⁽¹⁾ means any parliamentary or municipal borough, Improvement Act District, local government district, or other place having a known legal boundary, and wherever two or more of the above-mentioned places occupy portions of the same area, “town” shall be taken to mean such one of such places as is the largest in area; and any premises situate in more than one town shall, for the purposes of this Act, be deemed to be in such one of the towns as is the largest in area:

“Local government district” means any area subject to the jurisdiction of a local board constituted in pursuance of the Local Government Act, 1858:

“Improvement Act District” means any area for the time being subject to the jurisdiction of any commissioners, trustees, or other persons intrusted by any local Act, not being a Turnpike Act or Highway Act, with powers of improving, cleansing or paving any part of such district:

“Court of summary jurisdiction” means any justice or justices of the peace, metropolitan police magistrate, stipendary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled “An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders,” in this Act referred to as “The Summary Jurisdiction Act, 1848,” and any Acts amending the same:

“Quarter sessions” includes general sessions:

“Secretary of State” means one of Her Majesty’s principal Secretaries of State.

(1) Repealed so far as it relates to provisions with respect to closing and new licenses.

*Repeal.***35 & 36
Vict. c. 94.**Repeal of Acts
mentioned in
second
schedule.

75. (*) The several Acts set forth in the second schedule hereto shall be repealed to the extent to which such Acts are therein expressed to be repealed, and in particular there shall be repealed so much of the Wine and Beerhouses Acts as makes such Acts temporary in their duration, and the said Acts shall henceforth be perpetual.

Provided that the repeal enacted in this Act shall not affect—

- (1.) Any security given before this Act comes into operation :
- (2.) Anything duly done before this Act comes into operation :
- (3.) Any right acquired or liability accrued before this Act comes into operation :
- (4.) Any removal of a license or certificate in pursuance of the second section of "Intoxicating Liquor Licensing Suspension Act, 1871" :
- (5.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation :
- (6.) The institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

Provided also, that in the case of persons intending to apply for billiard licenses under the Act of the eighth and ninth years of the reign of her present Majesty, chapter one hundred and nine, intituled "An Act to amend the law concerning games and wagers," or for the transfer of such licenses, the same notices shall be given as are by this Act required in the case of licenses as defined by this Act, or as near thereto as circumstances admit ; and any person convicted of an offence against the tenor of a billiard license, or of any offence declared by the last mentioned Act to be an offence against the tenor of a license as defined by this Act, shall be punished under this Act in the same manner in all respects as a licensed person within the meaning of this Act is punishable under this Act for suffering any gaming or any unlawful game to be carried on on his premises ; and in construing the last-mentioned Act any reference to the Intoxicating Liquor Licensing Act, 1828, shall be construed to refer to that Act as amended by this Act.

[SECOND SCHEDULE.]

(*) The first part of this section is repealed by 46 & 47 Vict. c. 39.

SECOND SCHEDULE.

35 & 36
Vict. c. 94.*(Repealed by 46 & 47 Vict. c. 39, but retained for reference.)*

Session and Chapter.	Title.	Extent of Repeal.
21 James 1, c. 7 ...	An Act for the better repressing of drunkenness, and restraining the inordinate haunting of inns, alehouses, and other victualling houses.	So much as is unrepealed.
9 Geo. 4, c. 61 ...	An Act to regulate the granting of licenses to keepers of inns, alehouses, and victualling houses in England.	Section six; section ten; section eleven; so much of section thirteen as relates to the form of license; sections eighteen and nineteen; section twenty; section twenty-one; section twenty-two; section twenty-three; section twenty-five; section twenty-six; also section twenty-seven; section twenty-eight; section twenty-nine, except in so far as the three last-mentioned sections relate to the renewal of licenses or to the transfer of licenses under sections four and fourteen of the same Act; also section thirty-one; section thirty-two; section thirty-three; section thirty-four.
11 Geo. 4 & 1 W. 4, c. 64	An Act to permit the general sale of beer and cider by retail in England.	Section six; section eleven; section twelve; section thirteen; section fifteen; section sixteen; section seventeen; section eighteen; section nineteen; section twenty; section twenty-one; section twenty-two; section twenty-five; section twenty-six; section twenty-seven; so much of section thirty as incorporates or applies any repealed enactment.
4 & 5 Will. 4, c. 85.	An Act to amend an Act passed in the first year of His present Majesty to permit the general sale of beer and cider by retail in England.	Section four; section seven; section ten; so much of section eleven as incorporates or applies any repealed enactment; section eighteen; section twenty-two.
2 & 3 Vict. c. 47 ...	An Act for further improving the police in and near the metropolis.	Section forty-one, from "and in the case of any offence" to end of section. Section forty-two; section forty-three.

35 & 36
Vict. c. 94.

Session and Chapter.	Title.	Extent of Repeal.
3 & 4 Vict. e. 61 ...	An Act to amend the Acts relating to the general sale of beer and cider by retail in England.	Section ten ; section thirteen ; section fifteen ; section sixteen ; section seventeen ; section nineteen ; also so much of section twenty-one as incorporates or applies any repealed enactment.
11 & 12 Viet. e. 49.	An Act for regulating the sale of beer and other liquors on the Lord's Day.	The whole Act so far as it relates to England.
18 & 19 Viet. e. 118	An Act to repeal the Act of the seventeenth and eighteenth years of the reign of Her present Majesty for further regulating the sale of beer and other liquors on the Lord's Day, and to substitute other provisions in lieu thereof.	The whole Act.
23 & 24 Viet. e. 27.	An Act for granting to Her Majesty certain duties on wine licenses and refreshment houses, and for regulating the licensing of refreshment houses and the granting of wine licenses.	Section five ; section seventeen ; section twenty ; section twenty-six ; section twenty-seven ; section twenty-eight ; section twenty-nine ; section thirty-one ; also sections eighteen, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, forty-one, and forty-two, so far as such sections relate to the sale of intoxicating liquors or any offences connected therewith ; also section thirty-nine ; section forty.
23 & 24 Viet. e. 113.	An Act to grant duties of excise on chicory and on licenses to dealers in sweets or made wines, also to reduce the excise duty on hops and the period of credit allowed for payment of the duty on malt and hops respectively ; to repeal the exemption from license duty of persons dealing in foreign wine and spirits in bond, and to amend the laws relating to the excise.	Section forty-one.

Session and Chapter.	Title.	Extent of Repeal.
27 & 28 Vict. c. 64.	An Act for further regulating the closing of public houses and refreshment houses within the metropolitan police district, the city of London, certain corporate boroughs, and other places.	The whole Act, except in so far as it relates to refreshment houses in which intoxicating liquors are not sold.
28 & 29 Vict. c. 77.	An Act to amend the Act 27 & 28 Vict. c. 64, commonly called "The Public House Closing Act, 1864."	The whole Act, except in so far as it relates to refreshment houses in which intoxicating liquors are not sold.
32 & 33 Vict. c. 27.	An Act to amend the law for licensing beerhouses, and to make certain alterations with respect to the sale by retail of beer, cider, and wine.	So much of section six as relates to the form of certificate; section twelve; section thirteen; section fourteen; section fifteen; section sixteen; section seventeen; section eighteen; so much of section nineteen as relates to offences; section twenty-two.
33 & 34 Vict. c. 29.	An Act to amend and continue "The Wine and Beerhouse Act Amendment Act, 1869."	Section five; section six; section seven, from "the second and third provisoes" to the end of section; section eight; section nine; section twelve; section thirteen; section fifteen; section seventeen.
34 & 35 Vict. c. 88.	An Act to restrict during a limited time the grant by justices of the peace of new licenses and certificates for the sale of intoxicating liquors by retail, and for other purposes.	The whole Act.

CUSTOMS AND INLAND REVENUE ACT, 1873.

36 & 37 VICT. c. 18.

An Act to grant certain Duties of Customs and Inland Revenue, and to alter other Duties.

[15th May 1873.]

**36 & 37
Vict. c. 18.**Exemption of
hotel-keepers,
etc., from duty
on servants
under 32 & 33
Vict. c. 14.

p. 208.

4. It shall not be necessary for a license to be taken out under the Act of the thirty-second and thirty-third years of Her Majesty's reign, chapter fourteen, by any hotel-keeper, retailer of intoxicating liquor, or refreshment house keeper, for any servant wholly employed by him for the purposes of his business.

LICENSING ACT, 1874.

37 & 38 VICT. c. 49.

An Act to amend the Laws relating to the sale and consumption of Intoxicating Liquors.

[30th July 1874.]

**37 & 38
Vict. c. 49.**35 & 36 Vict.
c. 94.Construction
and short title
of Act.35 & 36 Vict.
c. 94.

WHEREAS it is expedient to amend the Licensing Act, 1872, in this Act referred to as the principal Act :

Preliminary.

1. This Act and the principal Act shall, so far as is consistent with the respective tenors of such Acts, be construed as one Act, and may be cited together as "The Licensing Acts, 1872-1874"; but this Act may, if necessary, be cited separately as "The Licensing Act, 1874."

Hours of Closing.

3. All premises in which intoxicating liquors are sold by retail shall be closed as follows ; (that is to say,)

(1.) If situate within the metropolitan district,—

(a) On Saturday night from midnight until one o'clock in the afternoon on the following Sunday ; and

(b) On Sunday night from eleven o'clock until five o'clock on the following morning ; and

Hours of
closing pre-
mises licensed
for sale of
intoxicating
liquors.

p. 84.

(c) On all other days from half an hour after midnight until five o'clock on the same morning; and

37 & 38
Vict. c. 49.

(2.) If situate beyond the metropolitan district and in the metropolitan police district or in a town or in a populous place as defined by this Act,—

(a) On Saturday night from eleven o'clock until half an hour after noon on the following Sunday; and

(b) On Sunday night from ten o'clock until six o'clock on the following morning; and

(c) On the nights of all other days from eleven o'clock until six o'clock on the following morning; and

(3.) If situate elsewhere than in the metropolitan district or the metropolitan police district or such town or populous place as aforesaid,—

(a) On Saturday night from ten o'clock until half an hour after noon on the following Sunday; and

(b) On Sunday night from ten o'clock until six o'clock on the following morning; and

(c) On the nights of all other days from ten o'clock until six o'clock on the following morning.

Such premises wherever situate shall, save as hereinafter mentioned, be closed on Sunday afternoon from three or half-past two, according as the hour of opening shall be one o'clock in the afternoon or half an hour after noon until six o'clock.

Such premises wherever situate shall be closed on Christmas Day and Good Friday and on the days preceding Christmas Day and Good Friday respectively, as if Christmas Day and Good Friday were respectively Sunday, and the preceding days were respectively Saturday, but this provision shall not alter the hours during which such premises shall be closed on Sunday when Christmas Day immediately precedes or succeeds Sunday.

4. An exemption from the above-mentioned hours of closing shall not be granted in respect of premises in the neighbourhood of a theatre, for the accommodation of persons attending the same, and so much of the twenty-sixth section of the principal Act as provides for the granting of an order making such exemption shall be repealed.

Exemptions as
to theatres
repealed.

p. 91.

5. The grant of an order of exemption under the said twenty-sixth section amended as aforesaid may be

Exemptions as
to beer-houses.

p. 91.

**37 & 38
Vict. c. 49.**

made to any person licensed to sell beer or cider by retail, to be consumed upon the premises, as well as to any licensed victualler or licensed keeper of a refreshment house.

Further
exemptions as
to beer-houses.

p. 32.

The grant of a license under the twenty-ninth section of the principal Act may be made to any person licensed to sell beer or cider by retail, to be consumed upon the premises, as well as to any licensed victualler or keeper of a refreshment house in which intoxicating liquors are sold.

Power to vary
on Sunday
afternoon
hours of closing
premises
for sale of
intoxicating
liquors.

p. 80.

6. Notwithstanding anything in this or in any local Act contained, the licensing justices may, if they think fit, as respects premises in which intoxicating liquors are sold, when situate in any place beyond the metropolitan district, for the purpose of accommodating the hours of closing on Sunday, Good Friday, and Christmas Day to the hours of public worship in such place, by order direct that such premises shall remain closed until one o'clock in the afternoon instead of half an hour after noon, and in that case such premises shall be closed in the afternoon from three until six o'clock, instead of from half-past two until six o'clock.

Any order made by the licensing justices under this section shall not come into operation until the expiration of one month after the date thereof, and shall be advertised in such manner as the licensing justices direct, and shall be in force until the same is revoked; the expense of any such advertisement may be defrayed in like manner as the expenses of advertising the sittings of such justices are defrayed.

Early-closing
licenses.

p. 36.

7. Where, on the occasion of any application for a new license, or the removal or renewal of a license which authorises the sale of any intoxicating liquor for consumption on the premises, the applicant applies to the licensing justices to insert in his license a condition that he shall close the premises in respect of which such license is or is to be granted one hour earlier at night than that at which such premises would otherwise have to be closed, the justices shall insert the said condition in such license.

The holder of a license in which such condition is inserted (in this Act referred to as an early-closing license) shall close his premises at night one hour earlier than the ordinary hour at which such premises would be closed under the provisions of this Act, and the provisions of this Act and the principal Act shall apply to the premises as if

such early hour were the hour at which the premises are required to be closed.

37 & 38
Vict. c. 49.

The holder of an early-closing license may obtain from the Commissioners of Inland Revenue any license granted by such Commissioners which he is entitled to obtain in pursuance of such early-closing license, upon payment of a sum representing six sevenths of the duty which would otherwise be payable by him for a similar license not limited to such early closing as aforesaid. In calculating the sixth sevenths fractions of a penny shall be disregarded.

The notice which a licensed person is required by section eleven of the principal Act to keep painted or fixed on his premises shall, in the case of an early-closing license, contain such words as the licensing justices may order for giving notice to the public that an early-closing license has been granted in respect of such premises.

8. A person who takes out a license containing conditions rendering such license a six-day license, as well as an early-closing license, shall be entitled to a remission of two-sevenths of the duty.

Remission of duty in case of six-day and early-closing license.

p. 35.

9. Any person who—

During the time at which premises for the sale of intoxicating liquors are directed to be closed by or in pursuance of this Act, sells or exposes for sale in such premises any intoxicating liquor, or opens or keeps open such premises for the sale of intoxicating liquors, or allows any intoxicating liquors although purchased before the hours of closing to be consumed in such premises,—

Penalty for infringing Act as to hours of closing.

p. 84.

shall for the first offence be liable to a penalty not exceeding ten pounds, and for any subsequent offence to a penalty not exceeding twenty pounds.

10. Nothing in this Act or in the principal Act contained shall preclude a person licensed to sell any intoxicating liquor to be consumed on the premises from selling such liquor at any time to *bonâ fide* travellers or to persons lodging in his house: Provided, that no person holding a six-day license shall sell any intoxicating liquor on Sunday to any person whatever not lodging in his house.

Saving as to *bonâ fide* travellers and lodgers.

p. 93.

Nothing in this Act contained as to hours of closing shall preclude the sale at any time, at a railway station, of intoxicating liquors to persons arriving at or departing from such station by railroad.

37 & 38
Vict. c. 49.

If in the course of any proceedings which may be taken against any licensed person for infringing the provisions of this Act or the principal Act, relating to closing, such person (in the section referred to as the defendant) fails to prove that the person to whom the intoxicating liquor was sold (in this section referred to as the purchaser) is a *bonâ fide* traveller, but the justices are satisfied that the defendant truly believed that the purchaser was a *bonâ fide* traveller, and further that the defendant took all reasonable precautions to ascertain whether or not the purchaser was such a traveller, the justices shall dismiss the case as against the defendant, and if they think that the purchaser falsely represented himself to be a *bonâ fide* traveller, it shall be lawful for the justices to direct proceedings to be instituted against such purchaser under the twenty-fifth section of the principal Act.

A person for the purposes of this Act and the principal Act shall not be deemed to be a *bonâ fide* traveller unless the place where he lodged during the preceding night is at least three miles distant from the place where he demands to be supplied with liquor, such distance to be calculated by the nearest public thoroughfare.

Hours of
closing night
houses.

p. 87.

11. Whereas by the Act of the session of the twenty-seventh and twenty-eighth years of the reign of her present Majesty, chapter sixty-four, it is provided that no persons within the limits of that Act shall open or keep open any refreshment house, to which that Act, so far as it is unrepealed, applies, or sell or expose for sale or consumption in any such refreshment house any refreshments or any article whatsoever between the hours of one and four o'clock in the morning: And whereas it is expedient to amend the provisions of the said Act: Be it therefore enacted, that the said Act, so far as it is unrepealed, shall be construed as if there were substituted therein for the hour of one o'clock in the morning the hour of the night or morning at which premises licensed for the sale of intoxicating liquors by retail situate in the same place as such refreshment house are required to be closed, and as if the whole of England were within the limits of the Act. . . .

Record of Convictions and Penalties.

Mitigation of
penalties.

p. 153.

12. The sixty-seventh section of the principal Act is hereby repealed, and in lieu thereof be it enacted, that where any person holding a license under this or the

principal Act is convicted of any offence against this or the principal Act, or against any of the Acts recited or mentioned therein, the court may not, except in the case of a first offence, reduce the penalty to less than twenty shillings, nor shall the penalty, whether of excise or police, be reduced in any case to less than the minimum authorised by any other Act.

37 & 38
Vict. c. 49.

13. Where any licensed person is convicted of any offence against the principal Act which by such Act was to have been or might have been endorsed upon the license, or of any offence against this Act, the court before whom the offender is brought shall cause the register of licenses in which the license of the offender is entered, or a copy of the entries therein relating to the license of the offender, certified in manner prescribed by section fifty-eight of the principal Act to be produced to the court before passing sentence, and after inspecting the entries therein in relation to the license of the offender, or such copy thereof as aforesaid, the court shall declare, as part of its sentence, whether it will or will not cause the conviction for such offence to be recorded on the license of the offender, and if it decide that such record is to be made, the same shall be made accordingly.

Record of
convictions on
licenses.

p. 133.

A declaration by the court that a record of an offence is to be made on a license shall be deemed to be part of the conviction or order of the court in reference to such offence, and shall be subject accordingly to the jurisdiction of the court of appeal.

A direction by the court that a conviction for an offence is to be recorded on the license of the offender shall, for the purposes of the principal Act, be deemed equivalent to a direction or requirement by the Act that such conviction is to be recorded; and all the provisions of the principal Act importing that convictions are required or directed by the Act to be recorded on the license of an offender shall be construed accordingly.

14. Where a licensed person is convicted of any offence against the provisions of any Act for the time being in force relating to the adulteration of drink, such conviction shall be entered in the proper register of licenses, and may be directed to be recorded on the license of the offender in the same manner as if the conviction were for an offence against this Act, and when so recorded shall have effect as if it had been a conviction for an offence against this Act.

Record of
conviction for
adulteration.

p. 109.

**37 & 38
Vict. c. 49.**

Temporary
continuance
of licenses
forfeited
for single
offences.

p. 142.

15. Where any licensed person is convicted for the first time of any one of the following offences,—

1. Making an internal communication between his licensed premises and any unlicensed premises ;
2. Forging a certificate under the Wine and Beerhouse Acts, 1869 and 1870 ;
3. Selling spirits without a spirit license ;
4. Any felony ;

and in consequence either becomes personally disqualified or has his license forfeited, there may be made by or on behalf of the owner of the premises, an application to a court of summary jurisdiction for authority to carry on the same business on the same premises until the next special sessions for licensing purposes, and a further application to such next special sessions for the grant of a license in respect of such premises, and for this purpose the provisions contained in the Intoxicating Liquor Licensing Act, 1828, with respect to the grant of a temporary authority and to the grant of licenses at special sessions, shall apply as if the person convicted had been rendered incapable of keeping an inn, and the person applying for such grant was his assignee.

Regulations as to entry on Premises.

Constable to
enter on
premises for
enforcement of
Act.

p. 145.

16. Any constable may, for the purpose of preventing or detecting the violation of any of the provisions of the principal Act or this Act which it is his duty to enforce, at all times enter on any licensed premises, or any premises in respect of which an occasional license is in force.

Every person who, by himself, or by any person in his employ or acting by his direction or with his consent, refuses or fails to admit any constable in the execution of his duty demanding to enter in pursuance of this section, shall be liable to a penalty not exceeding for the first offence five pounds, and not exceeding for the second and every subsequent offence ten pounds.

Search warrant
for detection of
liquors sold or
kept contrary
to law.

p. 146.

17. Any justice of the peace, if satisfied by information on oath that there is reasonable ground to believe that any intoxicating liquor is sold by retail or exposed or kept for sale by retail at any place within his jurisdiction, whether a building or not, in which such liquor is not authorised to be sold by retail, may in his discretion grant a warrant under his hand, by virtue whereof it shall be lawful for any

constable named in such warrant at any time or times within one month from the date thereof, to enter, and, if need be by force, the place named in the warrant, and every part thereof, and examine the same and search for intoxicating liquor therein, and seize and remove any intoxicating liquor found therein which there is reasonable ground to suppose is in such place for the purpose of unlawful sale at that or any other place, and the vessels containing such liquor; and in the event of the owner or occupier of such premises being convicted of selling by retail or exposing or keeping for sale by retail any liquor which he is not authorised to sell by retail, the intoxicating liquor so seized and the vessels containing such liquor shall be forfeited.

37 & 38
Vict. c. 49.

When a constable has entered any premises in pursuance of any such warrant as is mentioned in this section, and has seized and removed such liquor as aforesaid, any person found at the time on the premises shall, until the contrary is proved, be deemed to have been on such premises for the purpose of illegally dealing in intoxicating liquor, and be liable to a penalty not exceeding forty shillings.

Any constable may demand the name and address of any person found on any premises on which he seizes or from which he removes any such liquor as aforesaid, and if he has reasonable ground to suppose that the name or address given is false may examine such person further as to the correctness of such name and address, and may, if such person fail upon such demand to give his name or address, or to answer satisfactorily the questions put to him by the constable, apprehend him without warrant and carry him as soon as practicable before a justice of the peace.

Any person required by a constable under this section to give his name and address who fails to give the same, or gives a false name or address, or gives false information with respect to such name and address, shall be liable to a penalty not exceeding five pounds.

Occasional Licenses.

18. Any person selling or exposing for sale any intoxicating liquor in any booth, tent, or place within the limits of holding any lawful and accustomed fair or any races without an occasional license authorising such sale shall, notwithstanding anything contained in any Act of Parliament to the contrary, be deemed to be a person selling or exposing for sale by retail intoxicating liquor at a place

Occasional
license required
at fairs and
races.

p. 33.

37 & 38 where he is not authorised by his license to sell the same,
Vict. c. 49. and be punishable accordingly.

Provided that this section shall not apply to any person selling or exposing for sale intoxicating liquors in premises in which he is duly authorised to sell the same throughout the year, although such premises are situate within the limits aforesaid.

Occasional
 licenses,—
 extension of
 time for
 closing.

p. 33.

19. Whereas by the twentieth section of the Act of the session of the twenty-sixth and twenty-seventh years of the reign of her present Majesty, chapter thirty-three, it is provided that the hours during which an occasional license shall authorise the sale of any beer, spirits, or wine shall extend from sunrise until one hour after sunset: Be it enacted, that the said section shall be construed as if in place of the words "sunrise until one hour after sunset" there were inserted the words "such hour not earlier than sunrise until such hour not later than ten o'clock at night as may be specified in that behalf in the consent given by the justice for the granting of such occasional license."

Offences on
 premises with
 occasional
 license.

p. 33.

20. For the purpose of so much of the principal Act as relates to offences against public order, that is to say, sections twelve to eighteen, both inclusive, and the sections for giving effect to the same, a person taking out an occasional license shall be deemed to be a licensed person within the meaning of the said sections, and the place in which any intoxicating liquors are sold in pursuance of the occasional license shall be deemed to be licensed premises, and to be the premises of the person taking out such license.

Miscellaneous.

Supply of
 deficiency in
 quota of
 borough jus-
 tices on joint
 committee.

p. 24.

21. Where from any reason there are not for the time being three qualified borough justices to form the quota of a joint committee for such borough, in pursuance of section thirty-eight of the principal Act, the deficiency in number of such borough justices shall be supplied by qualified county justices to be appointed by the county licensing committee.

Provisional
 grant and
 confirmation of
 licenses to new
 premises.

p. 24.

22. Any person interested in any premises about to be constructed or in course of construction for the purpose of being used as a house for the sale of intoxicating liquors to be consumed on the premises may apply to the licensing justices and to the confirming authority for the provisional

grant and confirmation of a license in respect of such premises; and the justices and confirming authority, if satisfied with the plans submitted to them of such house, and that if such premises had been actually constructed in accordance with such plans they would, on application, have granted and confirmed such a license in respect thereof, may make such provisional grant and order of confirmation accordingly.

37 & 38
Vict. c. 49.

A provisional grant and order of confirmation shall not be of any validity until it has been declared to be final by an order of the licensing justices made after such notice has been given as may be required by the justices at a general annual licensing meeting or a special sessions held for licensing purposes. Such declaration shall be made if the justices are satisfied that the house has been completed in accordance with such plans as aforesaid, and are also satisfied that no objection can be made to the character of the holder of such provisional license.

A provisional grant and confirmation of a license shall be subject to the same conditions as to the giving of notices and generally as to procedure to which such grant and confirmation would be subject if they respectively were not provisional, with this exception, that where a notice is required to be put up on a door of a house such notice may be put up in a conspicuous position on any part of the premises.

This section shall, with the necessary variations, extend to the provisional removal to any premises of an existing license under section fifty of the principal Act.

23. Separate licenses of justices shall not be required in the case of separate excise licenses, and a license of justices shall comprehend a permission to the licensee to take out as many excise licenses as may be specified in such license of the justices.

One license of justices may extend to several excise licenses.

24. A license to sell any intoxicating liquor for consumption only off the premises shall not require confirmation by any authority.

License to sell liquor not to be consumed on the premises.

p. 26.

25. Where the confirming authority is a joint committee that committee shall make rules in pursuance of section forty-three of the principal Act as to the proceedings to be adopted for the confirmation of new licenses, and as to the costs of such proceedings, and the persons by whom such costs are to be paid.

Joint committee to make rules under s. 43 of principal Act.

p. 26.

**37 & 38
Vict. c. 49.**

Notices of
adjourned
brewster
sessions and
of intention to
oppose.

p. 41.

26. Whereas by section forty-two of the principal Act it is enacted that a licensed person applying for the renewal of his license need not attend in person at the general annual licensing meeting unless he is required by the licensing justices so to attend: Be it enacted, that such requisition shall not be made, save for some special cause personal to the licensed person to whom such requisition is sent.

It shall not be necessary to serve copies of notices of any adjournment of a general annual licensing meeting on holders of licenses or applicants for licenses who are not required to attend at such adjourned annual general licensing meeting.

A notice of an intention to oppose the renewal of a license served under section forty-two of the principal Act shall not be valid unless it states in general terms the grounds on which the renewal of such license is to be opposed.

No appeal to
quarter sessions
in certain cases.

p. 73.

27. There shall be repealed so much of section eight of the Wine and Beerhouse Act, 1869, as incorporates or applies any repealed enactment, and no appeal shall be had to quarter sessions from any act of any justice with respect to the grant of new certificates under the Wine and Beerhouse Acts, 1869 and 1870.

Substitution
of licensing
justices for
Commissioners
of Inland
Revenue as
respects certain
notices.

p. 64.

28. Whereas by section eleven of the principal Act it is provided that every licensed person shall cause to be painted or fixed, and shall keep painted or fixed, on the premises in respect of which his license is granted, in a conspicuous place and in such form and manner as the Commissioners of Inland Revenue may from time to time direct, his name, with such additions as in the said Act mentioned: Be it enacted—

That in the said eleventh section the expression “licensing justices” shall be deemed to be substituted for the expression “Commissioners of Inland Revenue,” and the word “justices” for the word “commissioners.”

Definition of
term “owner.”

p. 63.

29. Any person possessing an estate or interest in premises licensed for the sale of intoxicating liquors, whether as owner, lessee, or mortgagee, prior or paramount to that of the immediate occupier, shall, on payment of a fee of one shilling to the clerk of the licensing justices, be entitled to be registered as owner or one of the owners of

such premises: Provided, that when such estate or interest is vested in two or more persons jointly, one only of such persons shall be registered as representing such estate or interest. **37 & 38 Vict. c. 49.**

30. No person keeping a house licensed under this or the principal Act shall be liable to any penalty for supplying intoxicating liquors, after the hours of closing, to private friends *bonâ fide* entertained by him at his own expense. Person not to be liable for supplying liquor to private friends without charge. **p. 85.**

Definitions and Repeal.

32. In this Act, if not inconsistent with the context, the following expressions have the meanings hereinafter respectively assigned to them; that is to say, Definitions.

"The metropolitan district" means the area in that behalf mentioned in the schedule hereto. "The metropolitan district."

"Town" means an urban sanitary district as described for the purposes of the Public Health Act, 1872; and any collection of houses adjacent to a town as so defined shall, for the purpose of the provisions of this Act with respect to the closing of premises, be deemed to be part of such town after it has been declared so to be by an order of the county licensing committee having jurisdiction in the place where such houses are situated: Provided that no urban sanitary district, whether including such adjacent houses or not, shall be deemed a town, unless it contains one thousand inhabitants. "Town." **p. 84.**

"Populous place" means any area with a population of not less than one thousand, which by reason of the density of such population the county licensing committee may by order determine to be a populous place. "Populous place." **p. 81.**

At a meeting especially convened for that purpose in manner provided by any regulations in that behalf, or in default of such regulations by the clerk of the peace, as soon as may be after the passing of this Act, and not later than the first day of September one thousand eight hundred and seventy-four, the county licensing committee shall consider all the cases within their jurisdiction with respect to which it is incumbent upon them to make orders in pursuance of this section, and they shall make orders accordingly, and shall specify therein the boundaries of such towns or populous places.

The county licensing committee may adjourn any meeting held in pursuance of this section, and may also at any subsequent meeting especially convened for that purpose make with respect to any town or populous place

37 & 38 within their jurisdiction any like order not restrictive of
Vict. c. 49. any order previously made.

Provided that as soon as may be after the publication of each census the county licensing committee shall, at a meeting to be specially convened for the purpose, revise the orders then in force within their jurisdictions, constituting areas either parts of towns or populous places, and may alter or cancel any of the said orders or may make such further orders, if any, as they shall deem necessary to give effect to the provisions of this Act.

“Occasional
license.”

“Occasional license” means a license to sell beer, spirits, or wine granted in pursuance of the thirteenth section of the Act passed in the twenty-fifth and twenty-sixth years of the reign of her present Majesty, chapter twenty-two, and section five of the Act of the twenty-seventh year of the reign of her present Majesty, chapter eighteen, and the Acts amending the same in relation to the licenses therein mentioned, or of any of such Acts.

“A new
license.”

p. 27.

“A new license” means a license for the sale of any intoxicating liquor granted at a general annual licensing meeting in respect of premises in respect of which a similar license has not theretofore been granted.

SCHEDULE.

METROPOLITAN DISTRICT.

The city of London or the liberties thereof, or any parish or place for the time being subject to the jurisdiction of the Metropolitan Board of Works, or within the area contained within a circle the radius of which is four miles from Charing Cross.

CUSTOMS AND INLAND REVENUE ACT, 1875.

(38 & 39 VICT. c. 23.)

An Act to grant certain Duties of Customs and Inland Revenue, to alter other Duties, and to amend the Laws relating to Customs and Inland Revenue.

[14th June 1875.]

38 & 39
Vict. c. 23.

Wine dealer's
license to in-
clude sweets.

p. 195.

9. A license to a dealer in foreign wine, or to a retailer thereof, shall be granted so as to extend to the sale of any kind of sweets, or made wines, or mead, or metheglin in any quantity, without the payment of any further duty than such as is chargeable on a license to a dealer in foreign wine, or to a retailer thereof.

SALE OF FOOD AND DRUGS ACT, 1875.

(38 & 39 VICT. c. 63.)

An Act to repeal the Adulteration of Food Acts, and to make better provision for the Sale of Food and Drugs in a pure state. [11th August 1875.]

2. The term "food" shall include every article used for food or drink by man, other than drugs or water :

**38 & 39
Vict. c. 63.**

The term "drug" shall include medicine for internal or external use.

Interpretation
of words.

Description of Offences.

3. No person shall mix, colour, stain or powder, or order or permit any other person to mix colour, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding fifty pounds for the first offence ; every offence after a conviction for a first offence, shall be a misdemeanor, for which the person, on conviction, shall be imprisoned for a period not exceeding six months with hard labour.

Prohibition of the mixing of injurious ingredients and of selling the same.

p. 109.

5. Provided that no person shall be liable to be convicted under either of the two last foregoing sections of this Act in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the justice or court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Exemption in case of proof of absence of knowledge.

p. 109.

6. No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, under a penalty not exceeding twenty pounds ; provided that an offence shall not be deemed to

Prohibition of the sale of articles of food and of drugs not of the proper nature, substance, and quality.

p. 110.

38 & 39 Vict. c. 63. be committed under this section in the following cases ; that is to say,

- (1.) Where any matter or ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof ;
- (2.) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent ;
- (3.) Where the food or drug is compounded as in this Act mentioned ;
- (4.) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

Protection from offences by giving of label.

p. 110.

8. Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed.

CUSTOMS AND INLAND REVENUE ACT, 1876.

(39 & 40 VICT. c. 16.)

An Act to grant and alter certain Duties of Customs and Inland Revenue, and to amend the Laws relating to Customs and Inland Revenue. [1st June 1876.]

39 & 40 Vict. c. 16.

Alteration of duties on licenses to retail wine for consumption on the premises.

p. 163.

4. In lieu of the duties at several rates now payable under the Acts of the sixth year of the reign of King George the Fourth, chapter eighty-one, and of the third and fourth years of Her Majesty's reign, chapter seventeen, on licenses to retailers of foreign wine, and under the Act of the twenty-third and twenty-fourth years of Her Majesty's reign, chapter twenty-seven, and the Act of the same years, chapter one hundred and seven, on every license to any licensed keeper of a refreshment-house to sell therein

by retail foreign wine to be consumed on the premises, there shall be paid for each such license the uniform duty of £2 4s. 1d.

**39 & 40
Vict. c. 16.**

So far as regards any such license as aforesaid to be granted under the said Act of the sixth year of the reign of King George the Fourth, chapter eighty-one, the provisions contained in the fourteenth section of the said Act are hereby repealed.

Sect. 14 of 6 Geo. IV, c. 81, repealed as respects wine licenses.—
Alteration of scale of abatement to meet alteration of duties.

In lieu of the scale of abatement contained in section nine of the Act of the twenty-fourth and twenty-fifth years of Her Majesty's reign, chapter ninety-one, the following scale shall be substituted, and the said section shall be read as if the said scale therein contained had been as follows; (that is to say,)

Where the house and premises in respect of	£	s.	d.
which such licenses shall be granted shall			
in England be under the rent and value,			
or in Ireland under the value, of thirty			
pounds a year, an abatement of	0	7	4
And where the same shall be of the rent or			
value of thirty pounds or upwards, an			
abatement of	0	17	10

STATUTE LAW REVISION (SUBSTITUTED ENACTMENTS) ACT, 1876.

(39 & 40 VICT. C. 20.)

An Act to facilitate the Revision of the Statute Law by substituting in certain Acts, incorporating Enactments which have been otherwise repealed, a reference to recent Enactments still in force. [27th June 1876.]

5. There shall be repealed so much of section ten of the Prevention of Crimes Act, 1871, as provides that "any person convicted under that section shall have a right to appeal against such conviction in the same manner in all respects as if the said conviction had been for an offence committed against the provisions of the Act of the ninth George the Fourth, chapter sixty-one," which last-mentioned provisions have since been repealed, and in place thereof be it enacted that—

**39 & 40
Vict. c. 20.**

Substitution of Licensing Act, 1872 (35 & 36 Vict. c. 94), for the repealed enactments mentioned in sect. 10 of Prevention of Crimes Act, 1871 (34 & 35 Vict. c. 112).

Any person convicted under section ten of the Prevention of Crimes Act, 1871, shall have a right to appeal against such conviction in the same manner in all respects as a person may appeal who feels aggrieved by a conviction

**39 & 40
Vict. c. 20.** made by a court of summary jurisdiction under the Licensing Act, 1872, and all the provisions of such last-mentioned Act, and of any Act amending the same, relating to an appeal from a conviction made by a court of summary jurisdiction under such last-mentioned Act, shall apply accordingly.

SALE OF FOOD AND DRUGS ACT AMENDMENT
ACT, 1879.

(42 & 43 VICT. C. 30.)

An Act to amend the Sale of Food and Drugs Act, 1875.
[21st July 1879.]

**42 & 43
Vict. c. 30.**

In sale of adulterated articles no defence to allege purchase for analysis.

p. 109.

2. In any prosecution under the provisions of the principal Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects.

Reduction allowed to the extent of 25 degrees under proof for brandy, whisky, or rum, and 35 degrees for gin.

p. 109.

6. In determining whether an offence has been committed under section six of the said Act by selling, to the prejudice of the purchaser, spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin.

SUMMARY JURISDICTION ACT, 1879.

(42 & 43 VICT. C. 49.)

An Act to amend the Law relating to the Summary Jurisdiction of Magistrates. [11th August 1879.]

PART II.

Amendment of Procedure.

**42 & 43
Vict. c. 49.**

Procedure on appeal to general or quarter sessions.

p. 150.

31. Where any person is authorised . . . to appeal from the conviction or order of a court of summary jurisdiction to a court of general or quarter sessions, he may

appeal to such court, subject to the conditions and regulations following :—

42 & 43
Vict. c. 49.

- (1.) The appeal shall be made to the prescribed court of general or quarter sessions, or if no court is prescribed, to the next practicable court of general or quarter sessions having jurisdiction in the county borough or place for which the said court of summary jurisdiction acted, and holden not less than fifteen days after the day on which the decision was given upon which the conviction or order was founded ; and
- (2.) The appellant shall, within the prescribed time, or if no time is prescribed within seven days after the day on which the said decision of the court was given, give notice of appeal by serving on the other party and on the clerk of the said court of summary jurisdiction notice in writing of his intention to appeal, and of the general grounds of such appeal ; and
- (3.) The appellant shall, within the prescribed time, or if no time is prescribed within three days after the day on which he gave notice of appeal, enter into a recognisance before a court of summary jurisdiction, with or without a surety or sureties as that court may direct, conditioned to appear at the said sessions and to try such appeal, and to abide the judgment of the court of appeal thereon, and to pay such costs as may be awarded by the court of appeal, or the appellant may, if the court of summary jurisdiction before whom the appellant appears to enter into a recognisance think it expedient, instead of entering into a recognisance, give such other security, by deposit of money with the clerk of the court of summary jurisdiction or otherwise, as that court deem sufficient ; and
- (4.) Where the appellant is in custody, the court of summary jurisdiction before whom the appellant appears to enter into a recognisance may, if the court think fit, on the appellant entering into such recognisance or giving such other security as afore-said, release him from custody ; and
- (5.) The court of appeal may adjourn the hearing of the appeal, and upon the hearing thereof may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter,

42 & 43
Vict. c. 49.

with the opinion of the court of appeal thereon, to a court of summary jurisdiction acting for the same county borough or place as the court by whom the conviction or order appealed against was made, or may make such other order in the matter as the court of appeal may think just, and may by such order exercise any power which the court of summary jurisdiction might have exercised, and such order shall have the same effect, and may be enforced in the same manner, as if it had been made by the court of summary jurisdiction. The court of appeal may also make such order as to costs to be paid by either party as the court may think just; and

- (6.) Whenever a decision is not confirmed by the court of appeal, the clerk of the peace shall send to the clerk of the court of summary jurisdiction from whose decision the appeal was made, for entry in his register, and also indorse on the conviction or order appealed against, a memorandum of the decision of the court of appeal, and whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall be sufficient evidence of the said decision in every case where such copy or certificate would be sufficient evidence of such conviction or order; and
- (7.) Every notice in writing required by this section to be given by an appellant shall be in writing signed by him, or by his agent on his behalf, and may be transmitted as a registered letter by the post in the ordinary way, and shall be deemed to have been served at the time when it would be delivered in the ordinary course of the post.

Application of
provisions
respecting
appeals to
quarter sessions
to appeals
under prior
Acts.

32. . . . Where any past Act, so far as unrepealed, prescribes that any appeal from the conviction or order of a court of summary jurisdiction shall be made to the next court of general or quarter sessions such appeal may be made to the next practicable court of general or quarter sessions having jurisdiction in the county borough or place for which the court of summary jurisdiction acted, and held not less than fifteen days after the day on which the decision was given upon which the conviction or order appealed against was founded.

33. (1.) Any person aggrieved who desires to question a conviction, order, determination, or other proceeding of a court of summary jurisdiction, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to the court to state a special case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the court decline to state the case, may apply to the High Court of Justice for an order requiring the case to be stated.

42 & 43
Vict. c. 49.

Appeal from court of summary jurisdiction by special case.

p. 151.

(2.) The application shall be made and the case stated within such time and in such manner as may be from time to time directed by rules under this Act, and the case shall be heard and determined in manner prescribed by rules of court made in pursuance of the Supreme Court of Judicature Act, 1875, and the Acts amending the same; and, subject as aforesaid, the Act of the session of the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, intituled, "An Act to improve the administration of the law so far as respects summary proceedings before justices of the peace," shall, so far as it is applicable, apply to any special case stated under this section, as if it were stated under that Act:

Provided that nothing in this section shall prejudice the statement of any special case under that Act.

46. For the purposes of the trial of any offence punishable on summary conviction under this Act or under any other Act, whether past or future, the following provisions shall have effect—

General provisions as to local jurisdiction of courts of summary jurisdiction.

(1.) Where the offence is committed in any harbour, river, arm of the sea, or other water, tidal or other, which runs between or forms the boundary of the jurisdiction of two or more courts of summary jurisdiction, such offence may be tried by any one of such courts.

(2.) Where the offence is committed on the boundary of the jurisdiction of two or more courts of summary jurisdiction, or within the distance of five hundred yards of any such boundary, or is begun within the jurisdiction of one court and completed within the jurisdiction of another court of summary jurisdiction, such offence may be tried by any one of such courts.

(3.) Where the offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake,

**42 & 43
Vict. c. 49.**

canal, or inland navigation, the person accused of such offence may be tried by any court of summary jurisdiction through whose jurisdiction such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the highway, road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of the jurisdiction of two or more courts of summary jurisdiction, a person may be tried for such offence by any one of such courts.

(4.) Any offence which is authorised by this section to be tried by any court of summary jurisdiction may be dealt with, heard, tried, determined, adjudged, and punished as if the offence had been wholly committed within the jurisdiction of such court.

BEER DEALERS RETAIL LICENSES ACT, 1880.

(43 & 44 VICT. C. 6.)

An Act for amending the law relating to the grant by Justices of Certificates for Beer Dealers Retail Licenses.

[19th March 1880.]

**43 & 44
Vict c. 6.**

WHEREAS by the enactments described in the schedule to this Act provision is now made for the holder of a strong beer dealer's wholesale excise license obtaining, on a certificate granted by justices, an additional license for sale of beer by retail for consumption off the premises, and it is expedient that justices should be at liberty to exercise their discretion respecting the grant of such certificates, as they are in respect of their certificates for licenses for sale of beer to be consumed on the premises, and that such certificates should be granted at the general annual licensing meeting of justices, and not at any other time :

Be it therefore enacted as follows :

Justices to have discretion as to licenses for consumption of beer off premises.

32 & 33 Vict. c. 27.

p. 68.

1. Section eight of the Wine and Beerhouse Act, 1869, is hereby repealed, as far as the qualification therein contained relates to grants of certificates for such additional licenses as aforesaid; and the licensing justices shall be at liberty either to refuse such certificates as aforesaid on any grounds appearing to them in the exercise of their discretion sufficient, or to grant the same to such persons as they, in the execution of their statutory powers, and in the exercise of their discretion, deem fit and proper.

2. Section thirty-one of the Licensing Act, 1874, is hereby repealed, as from and after the general annual licensing meeting held in any licensing district next after the passing of this Act; and thenceforth certificates for such additional licenses as aforesaid shall be granted at general annual licensing meetings, and not at any other time.

43 & 44
Vict. c. 6.

Licenses at
annual licens-
ing meetings
only.

37 & 38 Vict.
c. 49.

p. 185.

3. This Act may be cited as the Beer Dealers Retail Licenses Act, 1880, and shall not extend to Scotland or Ireland, and words therein have the same meaning as in the Licensing Act, 1872.

Short title;
extent;
construction.
35 & 36 Vict.
c. 94.

SCHEDULE.

Enactments relating to Beer Dealers Retail Licenses.

An Act for granting to Her Majesty certain duties of Inland Revenue, and to amend the laws relating to the Inland Revenue.—26 & 27 Vict. c. 33 (section one).

The Wine and Beerhouse Act, 1869.—32 & 33 Vict. c. 27.

The Licensing Act, 1874.—37 & 38 Vict. c. 49.

INLAND REVENUE ACT, 1880.

(43 & 44 VICT. c. 20.)

An Act to repeal the duties on Malt, to grant and alter certain duties of Inland Revenue, and to amend the Laws in relation to certain other duties.

[12th August 1880.]

1. This Act may be cited as the Inland Revenue Act, 1880.

43 & 44
Vict. c. 20.

Short title.

2. In this Act each of the following terms shall have the meaning assigned to it by this section, unless it is otherwise expressly provided, or there is something in the subject or context inconsistent therewith:

Interpretation
of terms.

“Person” includes a body of persons, whether corporate or unincorporate.

“Beer” includes ale, porter, spruce beer, and black beer, and any other description of beer.

“Commissioners” means Commissioners of Inland Revenue.

PART III.

*Licenses for the Sale of Liquors by Retail.***43 & 44
Vict. c. 20.**Meaning of
terms.**p. 50.**

40. For the purposes of this part of this Act each of the following terms shall have the meaning assigned to it in this section :

“Cider” includes perry :

“Sweets” includes made wines, mead, and metheglin :

“Beer” includes cider :

“Wine” includes sweets.

Alteration of
the duties on
certain excise
licenses.**p. 208.**

41. On and after the 1st day of July, 1880, in lieu of the duties of excise now payable on the licenses mentioned in this section, there shall be charged and paid the duties following ; (that is to say,)

	Duty.
On a license to be taken out by a person for the selling of cider by retail in England.....	£ s. d. 1 5 0
On a license to be taken out by a retailer of sweets in the United Kingdom	1 5 0
On a license to be taken out by a person for the selling by retail in the United Kingdom of beer to be consumed on the premises	3 10 0
On a license to be taken out by a person for the selling by retail in England of beer not to be consumed on the premises	1 5 0
On a license (additional) to be taken out by a licensed dealer in beer in England or Ireland authorising him to sell by retail beer not to be consumed on the premises.....	1 5 0
On a license to be taken out to sell wine by retail to be consumed on the premises	3 10 0
On a license to be taken out by any person in England or Ireland for the sale by retail in any shop of wine not to be consumed on the premises	2 10 0

Duties on
licenses for
the retailing of
beer and wine.**p. 208.**

42. (1.) On and after the 1st day of July, 1880, there shall be charged and paid upon licenses for the sale by retail of beer and wine to be taken out by any persons in the United Kingdom who may be authorised to obtain the same, the duties of excise following ; (that is to say,)

	Duty.
On a license for the sale by retail of beer and wine to be consumed on the premises	£ s. d. 4 0 0
On a license for the sale by retail of beer and wine not to be consumed on the premises.....	3 0 0

(2.) Every such license shall be in such form as the commissioners shall direct, and shall expire on the 10th day of October.

43. (1.) On and after the 1st day of July, 1880, in lieu of the duties of excise now payable on licenses to be taken out by retailers of spirits in the United Kingdom, there shall be charged and paid the duties following; (that is to say,) 43 & 44
Vict. c. 20.

Alteration of
duties on
licenses to
retailers of
spirits.

If the annual value of the dwelling-house in which the retailer shall reside or retail spirits, together with the offices, courts, yards, and gardens, therewith occupied,		Duty.		
		£	s.	d.
is under £10	.....	4	10	0
Is £10 and under £15	.....	6	0	0
„ 15	„ 20	8	0	0
„ 20	„ 25	11	0	0
„ 25	„ 30	14	0	0
„ 30	„ 40	17	0	0
„ 40	„ 50	20	0	0
„ 50	„ 100	25	0	0
„ 100	„ 200	30	0	0
„ 200	„ 300	35	0	0
„ 300	„ 400	40	0	0
„ 400	„ 500	45	0	0
„ 500	„ 600	50	0	0
„ 600	„ 700	55	0	0
„ 700 or above	.....	60	0	0

(2.) The holder of a license to retail spirits chargeable with duty under this Act shall not be required to take out any further or other excise license to enable him to sell beer or wine by retail. The holder of such license shall not be liable for any per-centage, discount, or other charge more than the amount stated in the Act. p. 208.

(3.) Any person applying for a six days' and early closing license for the sale of spirits as an auxiliary only to his business as a restaurateur or eating-house keeper, and not keeping an open drinking bar, shall be entitled to his license at a sum not exceeding thirty pounds, no such reduction to be made unless the licensing justices shall have certified by indorsement on their certificate that the nature of the business carried on by the applicant justifies the reduced scale of charge.

(4.) Where in the case of premises of the value of fifty pounds or upwards it shall be proved to the satisfaction of the commissioners that the premises are structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and are mainly so used, the amount of duty to be paid on a license to retail spirits shall not exceed twenty pounds. Provided that the relief under this sub-section shall not be given in case any portion of the premises is set apart and used as an ordinary public-house for the sale and consumption therein p. 208.

43 & 44
Vict. c. 20.

p. 208.

Duties on
licenses for
the sale of
liquors and
tobacco in
boats.

of liquors, and the annual value of such portion, in the opinion of the commissioners, exceeds twenty-five pounds.

(5.) The amount of duty to be paid for a license to retail spirits in any theatre granted under the provisions contained in the seventh section of the Act of the fifth and sixth years of the reign of King William the Fourth, chapter thirty-nine, shall not exceed twenty pounds.

(6.) The expression "retailers of spirits," as used in this section, does not include . . . a dealer in spirits selling spirits in bottle under an additional license authorising him in that behalf. . . .

45. (1.) The duty now charged upon a license to supply, retail, and sell foreign wine, strong beer, cider, perry, spirituous liquors, and tobacco to passengers on board any packet-boat or other vessel employed for the carriage and conveyance of passengers, to be consumed in or on board such boat or vessel, shall cease to be payable, and there shall be granted and paid the following duties of excise ; (that is to say,)

Upon a license to be taken out for the sale of spirits, wine, beer, and tobacco to be consumed on board a boat or vessel of any description employed for the carriage and conveyance of persons going as passengers from any place in the United Kingdom to any other place in the United Kingdom, or going from and returning to the same place on the same day,—

If the license is to be in force from the day of the	Duty.
date thereof until the thirty-first day of March	£ s. d.
next ensuing	5 0 0
If the license is to be in force for one day only...	1 0 0

(2.) Such licenses shall be granted under and be subject to the enactments contained in the Act of the ninth year of the reign of King George the Fourth, chapter forty-seven, as amended by section ten of the Act of the fourth and fifth years of the reign of King William the Fourth, chapter seventy-five, so far as such enactments are consistent with this Act and the terms of the licenses respectively.

Supplementary.

Powers and
provisions to
be applied to
excise duties,
drawbacks,
and licenses
under this Act.

46. The duties and drawbacks of excise, charged and allowed by Parts II. and III. of this Act, and the licenses therein mentioned, shall be under the management of the commissioners ; and all the powers, provisions, regulations, and directions contained in any Act relating to excise

duties, drawbacks, or licenses, or to penalties or forfeitures under excise Acts, and now or hereafter in force, shall respectively be of full force and effect with respect to the duties and drawbacks charged and allowed by Parts I. and II. of this Act and the licenses therein mentioned, and the penalties and forfeitures imposed by this Act, so far as the same are applicable and are consistent with the provisions of this Act, as fully and effectually as if the same had been herein specially enacted with reference to the last-mentioned duties, drawbacks, licenses, penalties, and forfeitures respectively.

43 & 44
Vict. c. 20.

47. The grant of a duty on beer by this Act shall not be deemed to bring beer within the expression "exciseable liquors," as contained in the Third Schedule to the Act of the eighth and ninth years of Her Majesty's reign, chapter one hundred and nine.

Construction
of term
"exciseable
liquors"
in billiard
license.

48. Nothing in this Act contained shall in anywise alter or affect the rights and privileges now existing under the charters of—

Saving rights
under certain
charters.

- (1.) Any university in the United Kingdom, or
- (2.) The master, wardens, freemen, and commonalty of the Vintners of the city of London, or
- (3.) The mayor or burgesses of the borough of Saint Albans, in the county of Hertford.*

SPIRITS ACT, 1880. (43 & 44 Vict. c. 24.)

*An Act to consolidate and amend the Law relating to the
Manufacture and Sale of Spirits.*

[26th August 1880.]

43 & 44
Vict. c. 24.

1. This Act may be cited as the Spirits Act, 1880.

Short title.
Definitions.

3. In this Act each of the following terms shall have the meaning assigned to it by this section, unless it is otherwise expressly provided, or there is something in the subject or context inconsistent with such meaning,—

"Spirits" means spirits of any description, and includes all liquors mixed with spirits, and all mixtures, compounds, or preparations, made with spirits :

* See p. 138, note, *ante*.

43 & 44
Vict. c. 24.

"Commissioners" means the Commissioners of Inland Revenue :

"Distiller," "rectifier," "dealer," and "retailer," mean respectively a person who distils, rectifies, or compounds, deals in, or retails spirits :

"License" means a license granted by the commissioners or by an officer duly authorised by them ; and "licensed," as applied to an excise trader, means a person holding a license so granted for the purpose of his business :

"Premises," when used with reference to an excise trader, means any building or place used by him in the course of his business, and of which entry is required to be made :

"Prescribed" and "approved" mean respectively prescribed or approved by the commissioners :

"Officer" means officer of Inland Revenue :

"Proper officer" means the officer of the division or ride in which the business of an excise trader is carried on, or in which anything is by this Act required to be done by, or any notice to be given to, such officer, and includes a person acting as such officer, and also any officer superior in matters of excise to such officer :

"Writing" includes print, and "written" includes printed :

"Justice" means a justice of the peace or a magistrate having jurisdiction for the county or place where any offence is committed or suspected to have been committed, or any offender is apprehended or found, or any goods or commodities are seized or liable to seizure or suspected to be so liable :

"County or place" includes a city, county of a city, county of a town, borough, liberty, division, franchise, or other place of magisterial jurisdiction.

Premises of
distiller not to
be connected
with premises
of brewer, &c.

11. (1.) A distiller may not carry on upon his premises the business of . . . a dealer in or retailer of wine.

(2.) No person may carry on the business of a distiller upon premises communicating otherwise than by an open public street or carriage road with any premises used by . . . a dealer in or retailer of spirits or a dealer in or retailer of wine.

(3.) If any person contravenes any of the foregoing provisions of this section he shall incur a fine of two hundred pounds.

88. (1.) A rectifier keeping a still may not carry on upon his premises the business of . . . a dealer in or retailer of wine. **43 & 44**
Vict. c. 24.

(2.) No person may carry on the business of a rectifier keeping a still upon premises communicating otherwise than by an open public street or carriage road with any premises used by . . . a dealer in or retailer of spirits or a dealer in or retailer of wine. Rectifier's premises not to be connected with the premises of a brewer, &c.

(3.) If any person contravenes any of the foregoing provisions of this section he shall incur a fine of two hundred pounds.

96. The first, second, and sixth rules contained in the seventh part of the first schedule and the rules contained in the eighth part thereof, with the corresponding penalties, and the provisions of this Act with respect to the following matters— Application to dealers and retailers of certain provisions relating to distillers.

(a) Penalty for interference with or attempt to defeat gauging, and

(b) Penalties for frauds and offences in relation to vessels and utensils,

shall apply to every dealer and retailer as if he were a distiller.

97. Every dealer and retailer must, in accordance with the prescribed regulations, make entry in writing, signed by him, of every building, room, place, fixed cask, vessel, and utensil intended to be used by him for keeping spirits, distinguishing each place or thing by a separate letter or number. Dealers and retailers to make entry.

98. (1.) There must be legibly cut, branded or painted with oil colour on some conspicuous part of every fixed cask or other vessel used by a dealer or retailer for holding spirits in stock, and on the outside of both the ends of every moveable cask used by him for keeping or delivering spirits, the number of gallons which the cask or vessel is capable of containing. Marking casks.

(2.) Every cask or vessel which does not bear the capacity thereof so cut, branded, or painted shall be forfeited with the contents, and the dealer or retailer shall incur a fine of fifty pounds.

99. (1.) Where the strength of any spirits forming part of the stock of a dealer or retailer cannot be ascertained by Sykes's hydrometer, the dealer or retailer must, Marking strength of certain spirits.

**43 & 44
Vict. c. 24.**

on being so required by an officer, cause the quantity and strength of the spirits to be legibly marked on the outside of the cask or vessel containing them.

(2.) Every cask or vessel which a dealer or retailer neglects or refuses, on being so required, to mark, or fails to keep so marked, or which is found to be untruly marked, shall be forfeited with the contents, and the dealer or retailer shall, for each offence, incur a fine of fifty pounds.

(3.) But a cask or vessel shall not be deemed to be untruly marked within the meaning of this section if the strength denoted by the mark corresponds with that expressed in the permit or certificate with which the spirits were received into stock, and no alteration has since been made in the spirits.

Situation of
dealer's and
retailer's
premises.

101. (1.) A dealer or retailer must not carry on his business upon any premises communicating otherwise than by an open public street or carriage road with any premises entered or used by a distiller, or a rectifier keeping a still.

(2.) A retailer must not be concerned or interested in the business of a distiller, or of a rectifier keeping a still, carried on upon any premises within two miles from the premises on which he is licensed to carry on the business of a retailer.

(3.) If a dealer or retailer contravenes this section he shall for each offence incur a fine of two hundred pounds.

Restrictions
on sale by
dealers and
retailers.

102. (1.) A dealer must not, unless he has an additional license authorising him so to do, or is also licensed as a retailer, sell, send out, or deliver spirits in any less quantity than two gallons of the same denomination at a time for the same person.

(2.) A retailer must not, unless he is also licensed as a dealer, sell, send out, or deliver spirits to a rectifier, dealer, or retailer, or buy or receive spirits from another retailer, not being also licensed as a dealer.

(3.) A dealer or retailer must not receive, send out, or have in his possession any British spirits of any strength exceeding that at which a distiller may send out spirits of the like denomination.

(4.) If a dealer or retailer contravenes this section he shall for each offence incur a fine of fifty pounds, and in case of the spirits being of unlawful strength they shall be forfeited.

103. (1.) An officer may at any time take an account of the quantity of spirits in the stock or possession of a dealer or retailer. **43 & 44
Vict. c. 24.**

(2.) If the quantity of spirits computed at proof found on taking the account exceeds the quantity which ought according to the stock book of the dealer or retailer to be in his possession, the excess shall be forfeited and the dealer or retailer shall incur a fine of twenty shillings for every gallon of the excess. Penalty for excess in stock of dealer or retailer.

104. The sale of spirits in any quantity less than two gallons or less than one dozen reputed quart bottles shall be deemed sale by retail. Meaning of sale by retail.
p. 53.

105. (5.) No spirits may be sent out or delivered from the stock of a dealer unless accompanied by a certificate, except spirits not exceeding in quantity one gallon at a time sold by him under an additional license or a license to retail to a person not being a dealer or retailer. Spirits required to be accompanied by permit or certificate.

(6.) No spirits exceeding in quantity one gallon of the same denomination at a time for the same person may be sent out or delivered from the stock of a retailer unless accompanied by a certificate.

(7.) Except as in this section is provided, no spirits exceeding the quantity of one gallon of the same denomination at a time for the same person may be sent out, delivered, or removed from any one place to any other place unless accompanied by a permit.

(8.) All spirits found to have been sent out, delivered, or removed or in course of being sent out, delivered or removed in contravention of this section, together with all horses, cattle, carriages, and boats made use of in conveying the same, shall be forfeited, and every person in whose possession the same are found shall incur a fine of one hundred pounds, or at the election of the Commissioners or the Commissioners of Customs a fine equal to treble the value of the spirits.

(9.) If any question arises as to the accuracy of the description of spirits in a permit or certificate, the proof that the spirits correspond to the description shall lie on the owner or claimant of the spirits, who shall prove the same by the oaths of two credible witnesses, being skilful and experienced persons competent to decide by examination thereof.

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Vict. c. 24.**

Penalties for
removal of
spirits without
permit and
fraudulent use
of permit.

107. (1.) If any person—

- (a) sends out, delivers, removes, or receives any spirits required to be accompanied by a permit without a permit ; or
- (b) sends out, delivers, removes, or receives any spirits in quantity greater than, or differing in quality, denomination, or strength from that expressed in the permit accompanying the same ; or
- (c) having obtained a permit, does not send out therewith the spirits therein described or return the permit to the proper officer within the time by law required ; or
- (d) requests, obtains, or uses any permit, or causes or suffers any permit to be requested, obtained, or used for any purpose other than that of accompanying the removal and delivery of spirits therein described ; or
- (e) produces, or causes or suffers to be produced to any person any permit as having been received with spirits other than those therein described ; or
- (f) in any manner uses, or causes or suffers to be used, any permit so that any account of spirits kept or checked by an officer may be frustrated or evaded ;

he shall, in addition to any other penalty or forfeiture, incur a fine of five hundred pounds.

(2.) Every permit used for any purpose other than that of accompanying the removal and delivery of the spirits for which it is granted and as therein expressed, shall be deemed to be a false permit, and any unlawful use thereof shall, in addition to any other penalty or forfeiture, subject the person using it to all penalties and forfeitures imposed by law upon any person for using a false permit.

(3.) If a distiller, rectifier, dealer, or retailer is convicted of an offence against this section he shall forfeit his license, and no new license shall be granted to him for the remainder of the year for which such forfeited license would have been in force.

Certificate
book.

108. (1.) Every rectifier, dealer and retailer must, by written request, obtain from the proper officer a certificate book containing forms of certificates and counterfoils, for which he must give a receipt.

(2.) Before sending out or delivering any spirits required to be accompanied by a certificate, he must enter in one of these certificates, and in its counterfoil, the particulars

specified in that behalf in the Fourth Schedule, and must sign the certificate.

43 & 44
Vict. c. 24.

(3.) He must deliver the certificate with the spirits to the person to whom the spirits are entered in the certificate.

(4.) He must use the certificates in the order in which they are numbered in the certificate book.

(5.) He must keep the certificate book in his premises, open to inspection by any officer, and must allow any officer to make entry therein, or take any extract therefrom.

(6.) He must return the certificate book when it is exhausted, or on request, to the proper officer, who shall give a receipt for it.

109. (1.) If a rectifier, dealer, or retailer sends out, delivers, or receives any spirits required to be accompanied by a certificate without a certificate or accompanied by an inaccurate certificate, he shall for each offence incur a fine of one hundred pounds, and all spirits sent out, delivered, or received in contravention of this section shall be forfeited.

Penalties in
case of re-
moval of
spirits without
certificate.

(2.) A penalty shall not be incurred under this section by reason only of the spirits being in strength not more than one per centum above or two per centum below the strength expressed in the certificate.

110. (1.) If a rectifier, dealer, or retailer uses or suffers to be used any certificate taken from his certificate book, except for the removal of spirits from his own stock, or delivers or parts with any form of certificate without filling it up, as required by this Act, he shall for each offence incur a fine of five hundred pounds.

Fraudulent use
of certificate.

(2.) If any person uses a certificate or form of certificate, whether filled up or not, so that the account of spirits kept or checked by an officer, or any examination of spirits by an officer, is or may be frustrated or evaded, he shall for each offence incur a fine of five hundred pounds.

(3.) If a rectifier, dealer, or retailer is convicted of an offence under this section, he shall forfeit his license, and no new license shall be granted to him for the remainder of the year for which such forfeited license would have been in force.

111. (1.) Every rectifier, dealer, and retailer must on receiving spirits accompanied by a permit or certificate, immediately cancel the permit or certificate in the prescribed

Cancelling
and delivery of
permits and
certificates.

43 & 44 Vict. c. 24. manner, and must deliver the cancelled permit or certificate to the officer who first inspects his premises after the receipt thereof.

(2.) If any person contravenes this section he shall incur a fine of fifty pounds.

(3.) But no penalty shall be incurred for the failure to deliver a permit or certificate if it is proved that the failure is caused by the permit or certificate having been lost or destroyed more than three months after the date thereof.

Stock book.

112. (1.) Every rectifier, dealer, and retailer must provide himself with and keep a stock book according to a pattern to be obtained on application to the proper officer, and must, on receiving any spirits, and also on sending out or delivering any spirits required to be accompanied by a certificate, enter in his stock book the particulars specified in that behalf in the Fourth Schedule.

(2.) He must make these entries at such times as an officer directs, or in the absence of any such direction before the expiration of the day on which the spirits are received, sent out, or delivered.

(3.) He must keep the stock book in his premises, open to inspection by any officer, and must allow any officer to make any entry therein or take any extract therefrom.

(4.) He must keep it open to such inspection for not less than twelve months after it is filled up.

Offences with respect to certificate books and stock books.

113. If a rectifier, dealer, or retailer—

- (a) fails to obtain, provide, keep, produce, or return a certificate book or a stock book as by this Act required, or to make therein respectively the entries by this Act required; or
- (b) hinders or obstructs any officer in examining a certificate book or a stock book, or in making any entry therein or extract therefrom; or
- (c) cancels, alters, obliterates, or destroys any part of a certificate book or a stock book or any entry therein; or
- (d) makes a false entry in a certificate book or a stock book; or
- (e) separates any certificate, or form of certificate, from its counterfoil without properly filling up the certificate and counterfoil, or except on the occasion of sending out or delivering spirits therewith;

he shall for each offence incur a fine of one hundred pounds.

PART III.

SUPPLEMENTAL.

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Vict. c. 24.

141. An officer may at any time enter the premises of a dealer or retailer and inspect and examine the spirits in his stock or possession, and take samples of any such spirits, paying for any sample so taken the usual price thereof.

Power to enter premises of dealer or retailer and examine and take samples.

142. Every distiller, rectifier, dealer, and retailer must when required by an officer, assist him by a sufficient number of servants in taking account of his stock, and shall for any neglect or refusal so to assist incur a fine of fifty pounds.

Distillers, &c., to assist in taking account.

146. (1.) If any person hawks, sells, or exposes to sale any spirits otherwise than in premises for which he is licensed to sell spirits he shall incur a fine of one hundred pounds, and the spirits shall be forfeited.

Unlawful hawking and sale of spirits.
p. 101.

(3.) In default of payment of the fine on summary conviction the offender shall be imprisoned with or without hard labour.

(4.) Any person may arrest a person found committing an offence against this section.

147. If any person knowingly sells or delivers, or causes to be sold or delivered, any spirits to the end that they may be unlawfully retailed or consumed or carried into consumption, he shall, in addition to any other penalty, incur a fine of one hundred pounds.

Sale of spirits for unlawful purposes.

148. If any person receives, buys, or procures any spirits from a person not having authority to sell or deliver the same, he shall incur a fine of one hundred pounds.

Unlawful purchase of spirits.

156. Any fine for any offence against this Act may be sued for and recovered, and any goods, chattels, or commodities forfeited under this Act may be returned for condemnation and condemned in the manner provided by law for the recovery of fines or penalties and for the condemnation of goods forfeited under any Act or Acts for the time being in force relating to the revenue of excise or customs.

Recovery of fines.

SUNDAY CLOSING (WALES) ACT, 1881.

(44 & 45 VICT. c. 61.)

*An Act to prohibit the Sale of Intoxicating Liquors on
Sunday in Wales.* [27th August 1881.]

**44 & 45
Vict. c. 61.**

Premises where
intoxicating
liquors sold to be
closed on Sun-
days in Wales.

1. In the principality of Wales all premises in which intoxicating liquors are sold or exposed for sale by retail shall be closed during the whole of Sunday.

Application of
Licensing Acts.
35 & 36 Vict. c. 94.
37 & 38 Vict. c. 40.

2. The Licensing Acts, 1872—1874, shall apply in the case of any premises closed under this Act as if they had been closed under those Acts.

Sale of intoxi-
cating liquors
at railway
stations.

4. Nothing in this Act contained shall preclude the sale at any time at a railway station of intoxicating liquors to persons arriving at or departing from such station by railway.

Short title.

5. This Act may be cited as the Sunday Closing (Wales) Act, 1881.

BEER DEALERS' RETAIL LICENSES (AMENDMENT)
ACT, 1882.

(45 & 46 VICT. c. 34.)

An Act to amend "The Beer Dealers' Retail Licenses Act, 1880." [10th August 1882.]

**45 & 46
Vict. c. 34.**

43 Vict. c. 6.

WHEREAS by the Beer Dealers' Retail Licenses Act, 1880, it is provided that the licensing justices shall be at liberty to exercise their discretion respecting the grant of certificates for such additional licenses for sale of beer by retail off the premises as are therein referred to, and that certificates for such additional licenses shall be granted at general annual licensing meetings, and not at any other time.

And whereas it is expedient to extend the provisions of the said Act to the granting of certificates for all licenses for sale of beer by retail for consumption off the premises:

Be it therefore enacted as follows:

1. Notwithstanding anything in section eight of the Wine and Beerhouse Act, 1869, or in any other Act now in force, the licensing justices shall be at liberty, in their free and unqualified discretion, either to refuse a certificate for any license for sale of beer by retail to be consumed off the premises on any grounds appearing to them sufficient, or to grant the same to such persons as they in the execution of their statutory powers and in the exercise of their discretion deem fit and proper.

**45 & 46
Vict. c. 34.**

Extension of discretion as to licenses for consumption of beer off the premises.
32 & 33 Vict. c. 27.

p. 66.

2. Certificates for any such licenses as aforesaid shall, notwithstanding anything in any Act now in force, be granted at general annual licensing meetings, and not at any other time.

Certificates at annual licensing meetings only.

3. This Act may be cited as the Beer Dealers' Retail Licenses (Amendment) Act, 1882; and shall not extend to Scotland; and words therein have the same meaning as in the Licensing Act, 1872.

Short title; extent; and construction of Act.
35 & 36 Vict. c. 94.

PAYMENT OF WAGES IN PUBLIC-HOUSES PROHIBITION ACT, 1883. (46 & 47 VICT c. 31.)

An Act to prohibit the Payment of Wages to Workmen in Public-houses and certain other places.

[20th August 1883.]

1. This Act may be cited as the Payment of Wages in Public-houses Prohibition Act, 1883.

**46 & 47
Vict. c. 31.**

Short title.

2. In this Act the expression "workman" means any person who is a labourer, servant in husbandry, journeyman, artificer, handicraftsman, or is otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, but does not include a domestic or menial servant, nor any person employed in or about any mine to which the Coal Mines Regulation Act, 1872, or the Metalliferous Mines Regulation Act, 1872, applies.

Definition of workman.

3. From and after the passing of this Act no wages shall be paid to any workman at or within any public-house, beer-shop, or place for the sale of any spirits, wine, cider, or other spirituous or fermented liquor, or any office, garden, or place belonging thereto or occupied therewith,

No wages to be paid within public-house.

46 & 47
Vict. c. 31.

save and except such wages as are paid by the resident owner or occupier of such public-house, beershop, or place to any workman *bonâ fide* employed by him.

Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this Act shall be guilty of an offence against this Act.

And in the event of any wages being paid by any person in contravention of the provisions of this Act for or on behalf of any employer, such employer shall himself be guilty of an offence against this Act, unless he prove that he had taken all reasonable means in his power for enforcing the provisions of this Act and to prevent such contravention.

Penalties.

4. Every person who is guilty of an offence against this Act shall be liable to a penalty not exceeding ten pounds for each offence; and all offences against this Act may be prosecuted and all penalties under this Act may be recovered by any person summarily in England in the manner provided by the Summary Jurisdiction Acts.

Act not to apply
to Ireland.

5. This Act shall not apply to Ireland.

CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883.

(46 & 47 VICT. c. 51.)

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections.

[25th August 1883.]

46 & 47
Vict. c. 51.

Use of committee room in house for sale of intoxicating liquor or refreshment, or in elementary school, to be illegal hiring.

20. (a.) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorized by a license (whether the license be for consumption on or off the premises), or

(b.) Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club, or

(c.) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises, . . .

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises

or any part thereof for a committee room he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring : 46 & 47
Vict. c. 51.

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

21. (1.) A person guilty of an offence of illegal hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds. Punishment
of illegal pay-
ment, employ-
ment, or
hiring.

(2.) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal hiring shall be guilty of an illegal practice.

38. (8.) With respect to a person holding a license or certificate under the Licensing Acts (*) (in this section referred to as a licensed person) the following provisions shall have effect :

- (a.) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses.
- (b.) If it appears to an election court or election commissioners that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court or commissioners (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same ; and whether such person obtained a certificate of indemnity or not it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses.

(*) *I.e.*, The Licensing Acts, 1872, 1874.

46 & 47
Vict. c. 51.

(c.) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

(9.) Where the evidence showing any corrupt practice to have been committed by . . . any licensed person, was given before election commissioners, those commissioners shall report the case to the Director of Public Prosecutions, with such information as is necessary or proper for enabling him to act under this section.

Prosecution
on summary
conviction,
and appeal
to quarter
sessions.

54. (1.) All offences under this Act punishable on summary conviction may be prosecuted in manner provided by the Summary Jurisdiction Acts.

(2.) A person aggrieved by a conviction by a court of summary jurisdiction for an offence under this Act may appeal to general or quarter sessions against such conviction.

LICENSING (EVIDENCE) ACT, 1884.

(47 & 48 VICT. c. 29.)

An Act to extend Section forty-one of the Licensing Act, 1872. [28th July 1884.]

47 & 48
Vict. c. 29.

WHEREAS by the forty-first section of the Licensing Act, 1872, it is provided that magistrates or justices in petty session may, if the application is for the grant of a license, receive a copy of the license if the same has been wilfully withheld by the holder thereof, and it is expedient to extend the said section :

Be it enacted as follows :

Extension of
35 & 36 Vict.
c. 94, s. 41.

p. 48.

1. Section forty-one of the Licensing Act, 1872, shall be construed as if after the words "application is for the grant of a license" there were inserted the words "or for the transfer of a license."

Provided that the magistrates or justices shall be satisfied by evidence submitted to them that the license is withheld without any legal right to withhold the same.

Short title.

2. This Act may be cited as the Licensing (Evidence) Act, 1884.

MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL
PRACTICES) ACT, 1884.

(47 & 48 VICT. C. 70.)

*An Act for the better Prevention of Corrupt and Illegal
Practices at Municipal and other Elections.*

[14th August 1884.]

16. (1.) (a.) Any premises, which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

47 & 48
Vict. c. 70.

Use of certain
premises for
committee
rooms or
meetings to be
illegal hiring.

(b.) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises, shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same, in contravention of this section, shall also be guilty of illegal hiring.

(2.) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

17. (1.) A person guilty of an offence of illegal hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

Punishment of
illegal payment,
employment, or
hiring.

(2.) Where an offence of illegal hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

23. So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the Third Schedule to this Act, shall apply as part of this Act.

Application of
ss. 37 & 38
of 46 & 47
Vict. c. 61.

THIRD SCHEDULE.

PART II.

Enactments relating to Disqualification of Electors.

The Corrupt and Illegal Practices Prevention Act, 1883,
46 & 47 Vict. c. 51.

47 & 48
Vict. c. 70.

S. 38. (8.) With respect to a person holding a license or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect:—

- (a.) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses:
- (b.) If it appears to an election court * * * that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court * * * (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same; and, whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses:
- (c.) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

CUSTOMS AND INLAND REVENUE ACT, 1885.

(48 & 49 VICT. C. 51.)

An Act to grant certain Duties of Customs and Inland Revenue, and to amend the laws relating to Customs and Inland Revenue. [6th August 1885.]

PART I.

CUSTOMS AND EXCISE.

48 & 49
Vict. c. 51.

Extension of
term "beer"
in 43 & 44
Vict. c. 20, and
in Excise
License Acts.

p. 51.

4.—(1.) The term "beer" in the Inland Revenue Act, 1880, shall be construed to extend to any liquor which is made or sold as a description of beer or as a substitute for beer, and which on analysis of a sample thereof at any

time shall be found to contain more than two per centum of proof spirit.

48 & 49
Vict. c. 51.

(2.) In the construction of any Act relating to excise licenses for the sale of beer unless there is something in the subject or context inconsistent therewith, the term "beer" wherever used in such Act shall have the meaning assigned to it by section two of the Inland Revenue Act, 1880, as extended by this section.

8.—(2.) A dealer in or retailer of beer shall not adulterate or dilute beer, or add any matter or thing thereto (except finings for the purpose of clarification), and any beer found to be adulterated or diluted or mixed with any other matter or thing (except finings) in the possession of a dealer in or retailer of beer shall be forfeited, and he shall incur a fine of fifty pounds.

Prohibition against adulteration of beer by brewers for sale, and dealers and retailers of beer.

p. 111.

9. The powers and provisions contained in any Act relating to excise allowances, or to penalties or forfeitures under excise Acts, and now or hereafter in force, shall respectively be of full force and effect with respect to the allowances mentioned in this part of this Act, and the penalties and forfeitures thereby imposed, so far as the same are applicable and are consistent with the provisions of this Act, as fully and effectually as if the same had been herein specially enacted with reference to the last-mentioned allowances, penalties, and forfeitures respectively.

Provisions to be applied to allowances and penalties under this part.

INTOXICATING LIQUORS (SALE TO CHILDREN) ACT, 1886.

(49 & 50 VICT. c. 56.)

An Act for the Protection of Children against the Sale to them of Intoxicating Liquors. [25th June 1889.]

1. Every holder of a license who knowingly sells, or allows any person to sell, any description of intoxicating liquors to any person under the age of thirteen years for consumption on the premises by any person under such age as aforesaid shall be liable to a penalty not exceeding twenty shillings for the first offence, and not exceeding forty shillings for the second and any subsequent offence.

49 & 50
Vict. c. 56

Sale of liquors to children to be illegal.

p 107.

2. For the purposes of all legal proceedings required to be taken under the foregoing section, this Act shall be construed as one Act with the Licensing Acts, 1872–1874.

Legal proceedings to follow the Licensing Acts, 1872–1874.

COAL MINES REGULATION ACT, 1887.

(50 & 51 VICT. c. 58.)

An Act to consolidate with Amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881.

[16th September 1887.]

PART I.

EMPLOYMENT OF BOYS, GIRLS, AND WOMEN.

50 & 51
Vict. c. 58.

Prohibition of
payment of
wages at
public-houses,
&c.

11. (1.) No wages shall be paid to any person employed in or about any mine at or within any public-house, beer-shop, or place for the sale of any spirits, beer, wine, cider, or other spirituous or fermented liquor, or other house of entertainment, or any office, garden, or place belonging or contiguous thereto, or occupied therewith.

(2.) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing, and to the best of his power enforcing, the provisions of this section to prevent the contravention or non-compliance.

PART III.

SUPPLEMENTAL.

Penalty for
offences against
Act.

59. (2.) Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding two pounds, for each offence.

Summary
proceedings
for offences,
fines, &c.

61. (1.) All offences under this Act not declared to be misdemeanours, and all fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

COUNTY COURTS ACT, 1888.

(51 & 52 VICT. c. 43.)

An Act to consolidate and amend the County Courts Acts.

[26th August 1889.]

PART IX.

MISCELLANEOUS PROVISIONS.

182. No action shall be brought or be maintainable in any county or other court to recover any debt or sum of money alleged to be due in respect of the sale of any ale, porter, beer, cider, or perry which was consumed on the premises where sold or supplied, or in respect of any money or goods lent or supplied, or of any security given for, in, or towards the obtaining of any such ale, porter, beer, cider or perry.

51 & 52
Vict. c. 43.No action for
beer, &c., con-
sumed on the
premises to be
brought.

p. 160.

[26th August 1889.]

REVENUE ACT, 1889.

(52 & 53 VICT. c. 42.)

An Act to amend the Law relating to the Customs and Inland Revenue, and for other purposes connected with the Public Revenue and Expenditure.

PART IV.

EXCISE.

23. (7.) Where any person carries on the trade of a dealer in or seller of tobacco in the same house or premises in which he also carries on the trade of a retailer of spirits, wine, beer, or sweets, the license granted to him for the sale of tobacco shall expire on the day on which the license granted to him for the sale of spirits, wine, beer, or sweets by law expires.

52 & 53
Vict. c. 42.Expiration
of tobacco
licenses taken
out by re-
tailers of
intoxicating
liquors.

(2.) Where by reason of this section a license for the sale of tobacco expires before the date at which it would otherwise have expired, a proportionate part of the duty shall be allowed.

24. If any person holding an excise license for the sale of any article contravenes the terms of his license, or sells otherwise than as he is authorised by the license, he shall for such offence, if the same is not an offence for which any

Penalty for
contravention
of terms of
excise license.

p. 182.

52 & 53
Vict. c. 42.

specific penalty is imposed by any excise Act, forfeit the penalty imposed by law upon a person dealing in or retailing or selling such article without having an excise license in force authorising him to do so.

Meaning of
"sweets or
made wines."

p. 51.

28. In the construction of any enactment relating to the revenue of excise the expression "sweets or made wines" shall mean any liquor which is made from fruit and sugar or from fruit or sugar mixed with any other material, and which has undergone a process of fermentation in the manufacture thereof.

POLICE ACT, 1890.

(53 & 54 VICT. c. 45.)

An Act to make provisions respecting the Pensions, Allowances, and Gratuities of Police Constables in England and Wales, and their Widows and Children, and to make other provisions respecting the Police of England and Wales.
[14th August 1890.]

53 & 54
Vict. c. 45.

Establishment
of pension
fund, and
fines, fees, &c.,
to be carried
to fund.

16. (1.) There shall be a pension fund of every police force, and there shall be carried to that fund—

(c) such fines or portions of fines, and such fees payable to or received by constables, as by any Act are directed or authorised to be carried to the superannuation or pension fund of the police force.

(2.) Unless the authority having control of the fund to which the sums hereinafter mentioned would but for this section be carried otherwise resolve, and except so far as the said sums are subject to the foregoing provisions of this section, there shall also be carried to the pension fund of every police force the following sums, namely:—

(k) The fines imposed by a court of summary jurisdiction for offences under the Licensing Acts, 1872 and 1874, when committed within the police area, or for any offence under a general or local Act similar to any of the above offences.

(4.) Any resolution passed for the purposes of this section may be revoked or varied.

(5.) The provisions of this section shall have effect notwithstanding anything in any charter or in any other Act, whether relating to municipal corporations or otherwise.

35 & 36 Vict.
c. 94.
37 & 38 Vict.
c. 49.

LOCAL GOVERNMENT ACT, 1894.

(56 & 57 VICT. c. 73.)

*An Act to make further provision for Local Government
in England and Wales.* [5th March 1894.]

61. No parish meeting or meeting of a parish council, or of a district council, or of a board of guardians, shall be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting either free of charge or at a reasonable cost.

56 & 57
Vict. c. 73.

Place of
meeting of
parish or dis-
trict council
or board of
guardians.

FORMS OF JUSTICES' LICENSES AND CERTIFICATES.

*Issued by the Home Secretary, July, 1873, under Licensing
Act, 1872, s. 48, p. 58, ante.*

I. FORM OF GRANT OF A NEW LICENSE, AND CONFIRMATION OF SUCH GRANT.

Licensing Act, 1872.

At the general annual licensing meeting [*or an adjournment
of the general annual licensing meeting*], holden at
on the day of 18 , for the division of
in the county of [*or for the borough of*]:

(a) We, being of the justices acting for the said division
and being the majority of those at the said meeting assembled,

or,

(b) We, being the majority of the members present of the
borough licensing committee, appointed for the said borough
in pursuance of the Licensing Act, 1872,

or,

(c) We, being of the justices of the said borough, and
being the majority of those at the said meeting assembled,

Hereby grant unto A. B., of [*here insert a licensed
victualler, beerhouse keeper, coffee-house keeper, confectioner,
eating-house keeper, licensed dealer in spirits, a refreshment-house
keeper, a wholesale spirit dealer, the holder of a strong beer
license, or as the case may be*], this license authorizing him to
apply for and hold [*Here insert A., or B., or C. . . . or M.,
p. 378, as the case may be.*]

The owner of the premises in respect of which this license
is granted is M. N., of .

This license shall be in force from the day of
until the day of .

Witness our hands.

[*Signatures of Justices.*]

NOTE.—A license may be authenticated by an official seal in lieu of
signatures, 35 & 36 Vict. c. 94, sect. 40, sub-sect. 3, applying 33 & 34 Vict. c. 29,
sect. 4, sub-sect. 2. *In that case insert, instead of "Witness our hands"—*
*"Given under the official seal of the said justices in sessions assembled, which
seal is hereto affixed in their presence by me, C. D., Clerk of the Licensing
Justices," or as the case may be.*

Confirmation.

At a meeting holden at on the day of :

(a) We, being the majority of members present of the county licensing committee, appointed for the said county in pursuance of the Licensing Act, 1872, do hereby confirm the grant of the above license.

Witness our hands.

or,

(b) We, being of the justices of the said borough, and being the majority of those at the said meeting assembled, do hereby confirm the grant of the above license.

Witness our hands.

or,

(c) We, being the majority of the members present of the joint committee, appointed for the said borough in pursuance of the Licensing Act, 1872, do hereby confirm the grant of the above license.

Witness our hands.

[*Signatures of Justices.*]¹

II. FORM OF RENEWAL OF A LICENSE, 35 & 36 VICT. C. 94, s. 74.

Licensing Act, 1872.

At the general annual licensing meeting [*or* an adjournment of the general annual licensing meeting] holden at on the day of , for the division of , in the county of [*or*, for the borough of]:

(a) We, being of the justices acting for the said division, and being the majority of those at the said meeting assembled,

or,

(b) We, being of the justices of the said borough, and being the majority of those at the said meeting assembled,

Hereby grant unto A. B., of [*here insert* a licensed victualler, beerhouse keeper, coffee-house keeper, confectioner, eating-house keeper, licensed dealer in spirits, a refreshment-house keeper, a wholesale spirit dealer, the holder of a strong beer license, *or as the case may be*], this renewal license authorizing him to apply for and hold [*Here insert* A., *or* B., *or* C. . . . *or* M., p. 378, *as the case may be.*]

¹ See note, *supra*.

The owner of the premises in respect of which this license is granted is M. N. of .

This license shall be in force from the day of ,
until the day of .

Witness our hands.

[Signatures of Justices.] ¹

III. THE SAME BY WAY OF INDORSEMENT, 35 & 36 VICT. C. 94,
s. 48 (2).

(To be endorsed on the License, or on a Copy thereof.)

At the general annual licensing meeting [*or*, an adjournment
of the general annual licensing meeting] holden at
on the day of , for the division of
in the county of [*or* for the borough of] :

(a) We, being of the justices acting for the said
division, and being the majority of those at the said meeting
assembled,

or,

(b) We being of the justices of the said borough, and
being the majority of those at the said meeting assembled,

Hereby renew the license within contained, and such license as
renewed shall be in force until the day of .

The owner of the premises in respect to which the license
is granted is M. N. of .

Witness our hands.

[Signatures of Justices.] ²

IV. FORM OF TRANSFER LICENSE GRANTED AT SPECIAL SESSIONS,
IN PURSUANCE OF 9 GEO. 4, C. 61, s. 4.

At a special sessions holden at on the day of
for the division of in the county of [*or*, for
the borough of] :

(a) We, being of Her Majesty's justices of the peace
acting in and for the said division, and being the majority
of those at the said sessions assembled),

¹ See Note to Form I.

² See Note to Form I.

or,

(b) We, being _____ of the justices of the said borough, and being the majority of those at the said meeting assembled,

Hereby, pursuant to section 4 of the Intoxicating Liquor Licensing Act, 1828, and the Acts amending the same, license one C. D. of _____ and transfer to him * the license now held by A. B., of _____ [*here insert a licensed victualler, beerhouse keeper, coffee-house keeper, confectioner, eating-house keeper, licensed dealer in spirits, a refreshment-house keeper, a wholesale spirit dealer, the holder of a strong beer license, or as the case may be*], and granted on the _____ day of _____ last, authorizing him to hold _____ [*Here insert A., or B., or C. . . . or M., p. 378, as the case may be.*]

* [*If by indorsement, say from the asterisk** the license within contained now held by the within-named A. B.]

And we hereby authorize the said C. D. to apply for and hold [*in the case of alehouses insert, any of the said excise licenses, as now held, as well as those which were not held by the said A. B. :—in other cases insert, the said excise license so held by the said A. B.*]

This transfer to be in force from this day until the

Witness our hands.

[*Signatures of Justices.*] ¹

V. FORM OF GRANT OF LICENSE AT SPECIAL SESSIONS, IN PURSUANCE OF 9 GEO. 4, C. 61, S. 14.

At a special sessions holden at _____ on the _____ day of _____, for the division of _____ in the county of _____ [*or, for the borough of _____*]:

(a) We, being _____ of the justices acting for the said division, and being the majority of those at the said sessions assembled,

or,

(b) We, being _____ of the justices of the said borough, and being the majority of those at the said sessions assembled,

Hereby, pursuant to sect. 14 of the Intoxicating Liquor Licensing Act, 1828, and the Acts amending the same, grant unto A. B., of _____ [*here insert a licensed victualler, beerhouse keeper,*

¹ See note to Form I.

coffee-house keeper, confectioner, eating-house keeper, licensed dealer in spirits, a refreshment-house keeper, a wholesale spirit dealer, the holder of a strong beer license, *or as the case may be*], this license authorizing him to apply for and hold [Here insert *A.*, *or B.*, *or C.* . . . *or M.*, p. 378, *as the case may be.*]

The owner of the premises in respect of which this license is granted is M. N. of .

This license shall be in force from the day of until the day of .

Witness our hands.

[Signatures of Justices.] ¹

APPENDIX

CONTAINING DESCRIPTIONS OF THE SEVERAL LICENSES (FOR INSERTION IN THE PREVIOUS SKELETON FORMS).

A.

Alehouse License (on or off).] Any of the excise licenses that may be held by a publican for the sale by retail, at a house situated at , known by the sign of the , of intoxicating liquor, to be consumed either on or off the premises.

If the license be a six-day license add as a separate paragraph :

The premises in respect of which this license is granted shall be closed during the whole of Sunday.

B.

Beerhouse license (off).] An excise license to sell by retail at a house situated at , beer to be consumed off the premises, in pursuance of the Act 11 Geo. 4 & 1 Will. 4, c. 64, and Acts amending the same.

C.

Beerhouse license (on or off).] An excise license to sell by retail at a house situated at , beer to be consumed either on or off the premises, in pursuance of the Act 11 Geo. 4 & 1 Will. 4, c. 64, and Acts amending the same.

¹ See note to Form I.

If the license be a six-day license add as a separate paragraph :

The premises in respect of which this license is granted shall be closed during the whole of Sunday.

D.

Cider and perry license (on or off).] An excise license to sell by retail at a house situated at _____, cider and perry, to be consumed either on or off the premises, in pursuance of the Act 11 Geo. 4 & 1 Will. 4, c. 64, and Acts amending the same.

If the license is a six-day license add as a separate paragraph :

The premises in respect of which this license is granted shall be closed during the whole of Sunday.

E.

Additional license to strong beer dealers.] An additional excise license to sell by retail at a house situated at _____, beer to be consumed off the premises, in pursuance of the Act 26 & 27 Vict. c. 33, s. 1.

F.

Table beer license (off).] An excise license to sell by retail at a house situated at _____ table beer, to be consumed off the premises, in pursuance of the Act 24 & 25 Vict. c. 21, s. 3.

G.

Wine license to shopkeeper (off).] An excise license to sell by retail at a shop situated at _____ wine, to be consumed off the premises, in pursuance of the Act 23 Vict. c. 27, s. 3, and Acts amending the same.

H.

License for wine to a refreshment-house keeper, confectioner, or eating-house keeper (on or off).] An excise license to sell by retail at a house situated at _____ wine to be consumed either on or off the premises, in pursuance of the Act 23 Vict. c. 27, ss. 7 and 8, and Acts amending the same.

If the license is a six-day license add as a separate paragraph :

The premises in respect of which this license is granted shall be closed during the whole of Sunday.

I.

A licensed dealer's additional spirit license (off).] An ADDITIONAL excise license to sell by retail at a shop situated at spirits, to be consumed off the premises, in pursuance of the Act 24 & 25 Vict. c. 21, s. 2.

K.

License for liqueurs in shops (off).] An excise license to sell by retail at a shop situated at liqueurs, to be consumed off the premises, in pursuance of the Acts 11 & 12 Vict. c. 121, and 23 & 24 Vict. c. 114, and Acts amending the same.

L.

License for sweets to a refreshment-house keeper, confectioner, or eating-house keeper (on or off).] An excise license to sell by retail at a house situated at sweets, to be consumed either on or off the premises, in pursuance of the Act 6 Geo. 4, c. 81, and Acts amending the same.

If the license is a six-day license add as a separate paragraph :

The premises in respect of which this license is granted shall be closed during the whole of Sunday.

M.

Sweets license to shopkeeper (off).] An excise license to sell by retail at a shop situated at sweets, to be consumed off the premises, in pursuance of the Act 6 Geo. 4, c. 81, and Acts amending the same.

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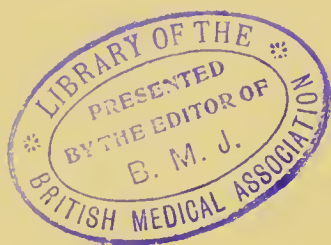
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12	×	16	.	.	0 9	8 0	0 10	9 0
10½	×	21	.	.	0 10	9 6	1 0	11 0
13	×	17	.	.	0 10	9 6	1 0	11 0
15	×	20	.	.	1 0	11 6	1 2	12 6
16	×	21	.	.	1 2	13 0	1 4	14 6
17	×	22	.	.	1 4	15 0	1 6	16 6
18	×	24	.	.	1 6	17 6	1 8	19 0
19	×	25	.	.	1 10	20 0	2 0	22 0
22	×	27	.	.	2 0	22 0	2 3	25 0
23	×	28	.	.	2 3	25 0	2 6	28 0
26	×	29	.	.	2 6	28 6	2 9	31 0
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AND		26	×	29	3 0	30 0	3 6	36 0
		27	×	30	3 6	35 0	4 0	40 0
FOLLOWERS	{	23	×	28	2 6	26 0	3 0	30 0
		24	×	29	3 0	30 0	3 6	36 0
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